

1 **APPEARANCES:**

2 FOR THE PLAINTIFF:

3 CHRISTOPHER N. CHENG, ESQ.
4 MATTHEW DONNELLY, ESQ.
5 SARAH G. STEEGE, ESQ.
6 LAURA L. COWALL, ESQ.
7 HELEN VERA, ESQ.
8 MITZI DEASE-PAIGE, ESQ.

9 FOR THE DEFENDANTS:

10 NICHOLAS F. MORISANI, ESQ.
11 JAMES W. SHELSON, ESQ.
12 TONY R. GAYLOR, ESQ.
13 RAYFORD G. CHAMBERS, ESQ.
14 JOHN C. HALL, II, ESQ.
15 REUBEN ANDERSON, ESQ.

16 ALSO PRESENT:

17 ANTHONY NJOKU
18 MICHAEL DENAULT
19 ELIZABETH SIMPSON
20 DAVID PARRISH
21 SHERIFF TYREE JONES
22 LESLIE FAITH JONES
23 CINDY MOHAN
24
25

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1 **IN OPEN COURT, FEBRUARY 18, 2022**

2
3 THE COURT: You may be seated.

4 Good morning. I assume there's nothing to take up?

5 Oh, okay. Ms. Cowall?

6 MS. COWALL: No, Your Honor.

7 THE COURT: Okay. Thank you. Yesterday I think I
8 asked the parties -- I asked the United States to make sure
9 that Major Bryan was here this morning because I did have a
10 few questions I wanted to ask her. And I think she's in the
11 courtroom; is that correct?

12 Major Bryan, you may return to the stand. Good
13 morning.

14 THE WITNESS: Good morning.

15 THE COURT: You can remove your mask, and I'll remind
16 you that you're still under oath, ma'am.

17 THE WITNESS: Yes, sir.

18 THE COURT: And I apologize. I failed to ask you the
19 other day a couple of questions that I wanted to make sure
20 that I asked or make sure that they were asked, and they could
21 have been, but I don't think so from reviewing my notes.

22 **KATHRYN BRYAN,**
23 **having been previously duly sworn, was examined**
24 **and further testified as follows...**

25 **EXAMINATION**

1 **BY THE COURT:**

2 Q. But do you recall the instructions -- I mean, have you
3 spoken with anyone about your testimony?

4 A. No, sir.

5 Q. Okay. Has anyone attempted to talk to you about your
6 testimony?

7 A. No, sir.

8 Q. Before you, I think, on your witness table is PX-13.

9 A. Yes.

10 Q. Okay. You see it?

11 THE COURT: I'm going to give the parties an
12 opportunity. She has the Court's Exhibit PX-13. It's in
13 evidence, and since I don't have the Elmo up here with me, I
14 have a -- no, I have a copy. PX-13, everybody has it? Okay.

15 **BY THE COURT:**

16 Q. Now, Major Bryan, PX-13 I believe is the letter of
17 resignation. Is that what you have before you?

18 A. It is.

19 Q. The letter of resignation that you wrote to Sheriff
20 Crisler?

21 A. Yes, sir.

22 Q. All right. I want to direct your attention to a couple
23 of things in that particular letter of resignation. I just
24 want to make sure about some things. In the first paragraph
25 of that letter, you say, "I was assured from all parties, from

1 sheriffs to County officials."

2 Now, I see sheriffs is plural there. So what, if any,
3 sheriffs were you referring to in your letter of resignation?

4 A. Sheriff Vance and Sheriff Crisler.

5 Q. Okay. And you mentioned -- and you say, "I was assured
6 from all parties, from sheriffs to County officials."

7 What County officials specifically assured you that they
8 would have -- you say, "I would have the support."

9 What County officials, if any, did you talk to or who
10 assured you they would have your support -- or that you would
11 have their support?

12 A. This is probably not an all-inclusive list, Your Honor.
13 Tony Gaylor, Mr. Credell Calhoun, Mr. Stephen Hopkins,
14 Mr. Kenny Wayne Jones, two or three --

15 MR. ANDERSON: Your Honor, I'm sorry, but I'm not
16 hearing her.

17 THE COURT: Oh, you're not hearing? Okay.

18 Could you speak up, please. Make sure that mike --
19 make sure the speaker is turned on.

20 THE WITNESS: Can you hear me now?

21 THE COURT: Hold on.

22 THE WITNESS: Now can you hear me?

23 THE COURT: Yes. Bring the microphone just a little
24 bit closer. One thing that's a disadvantage to those out
25 there is that you're turning your attention directly to me.

1 BY THE COURT:

2 Q. But you mentioned Tony Gaylor, Mr. Credell Calhoun,
3 Mr. Stephen Hopkins. Who is Mr. Stephen Hopkins?

4 A. The assistant administrator for the County.

5 Q. Okay. And you said Mr. Kenny Wayne Jones.

6 A. Yes, sir.

7 Q. He's the current County administrator?

8 A. Yes, sir.

9 Q. Any others?

10 A. Several of the commissioners.

11 Q. When you say "commissioners," are you talking about the
12 Board of --

13 A. Board of Supervisors.

14 Q. Board of Supervisors?

15 A. Yes, sir. And there were others. Everybody I talked to
16 offered support, but those are the ones I can think of by name
17 right now.

18 Q. Okay. Thank you.

19 Now, I know there was testimony, I think, but in that
20 second paragraph of your resignation, you refer to having
21 discovered in the last four months a distinct lack of support.
22 Tell me again, what did you believe was a lack of support for
23 you to do your duties?

24 A. In general, Your Honor, everything was difficult. Every
25 request I had, I had to go through so many people and so much

1 administration and so many logistics to get simple things
2 done.

3 There never seemed to be an opportunity for strategic
4 planning, long-term planning, short-term planning for jail
5 improvements, small and large. There was very little
6 collaboration and, it seemed, very little -- the atmosphere
7 was resistant, in my opinion, to support the jail. The words
8 were there. I believe for some the intent was there. But
9 when it came to actually supporting the jail, there wasn't
10 enough support to get much done.

11 And I know the pace that it should have taken because I
12 have fixed jails before. If I hadn't fixed jails before, I
13 might have presumed that this was the normal pace of things,
14 but it isn't. And those -- and they -- in my opinion, sir,
15 they were artificial barriers.

16 My mama always said, "If there was a million dollars
17 attached to you doing something, if you were going to gain by
18 doing something, would you put forth more of an effort?" And
19 it just didn't seem to me that people in general had a good
20 appreciation for what was happening in the jail even after the
21 deaths.

22 Q. And that death was the death in October?

23 A. The sum of --

24 Q. Is that -- you said --

25 A. The sum of all deaths up to and including a murder.

1 There still was never a meeting, a strategic plan on if I'm
2 having difficulties accomplishing things, how can we pave a
3 way forward to make some of those things happen more
4 expeditiously or at all?

5 Q. Okay. Now I'm going to get you to turn to page 2 of that
6 exhibit. Now, I think you -- I'm not sure what all testimony
7 was about this particular page or pages of the -- of this
8 particular exhibit, but can you tell me what this is? What is
9 page 2? Tell me, what is page 2 and the documents associated
10 with it?

11 A. Yes, sir. So in its entirety, this exhibit was my letter
12 of resignation.

13 Q. The entire thing?

14 A. The entire thing.

15 Q. Okay.

16 A. I did a cover let- -- knowing that information can be
17 requested by the public, I wanted to keep the details of it on
18 a separate document so that if information was requested about
19 my resignation, the County could offer page 1 and meet that
20 request, and then I wanted to put in more detail what had
21 happened, which was about the final straw of me having
22 difficulty being given the authority to run the jail, that
23 other entities had their hands in running the jail in a way
24 that was counter to the way I believed the jail needed to be
25 run. So page 2 is details for that final event.

1 Q. And that final event, tell me -- I understand what's on
2 this paper, and I've read it. But for the record, could you
3 tell me what that -- what you consider that final event to be?

4 A. Yes, sir. So prior to November 8th, prior to this
5 incident, we had an incident that was almost exactly the same
6 present itself to the jail, prior to this, that ended very
7 badly. The same circumstances presented themselves again on
8 November 8th, and this time it wasn't going to end badly
9 because all staff involved in this event did things exactly
10 how they should have. They learned from the first event that
11 was a catastrophic failure, and they did a really good job
12 this time with this inmate for this incident.

13 Q. And when you say "they learned from the first event," is
14 that the event that you described in that last paragraph from
15 March 2021?

16 A. Yes. Yes, sir.

17 Q. Okay. And do you recall just briefly -- I want to make
18 sure I'm clear on the event. Is that where a person
19 presented -- well, tell me, what's that event?

20 A. Well, a person came into booking and later died in
21 custody in the booking area. It was found that staff didn't
22 do what they needed to do. This time they did. And after
23 they did what they needed to do appropriately and in
24 accordance with their policies, they received a call from
25 Sheriff Crisler telling them to do something different than

1 what their policies told them to do, and it caused great
2 consternation with the staff because they knew there was a
3 conflict between what they were being told by their boss, the
4 sheriff, and what their policies drove them to do.

5 And this had been occurring with the sheriff's
6 administration, not with Sheriff Crisler himself. This was an
7 isolated incident with him. But with that sheriff's
8 administration, there were people that were either directing
9 me to do something counter to how I knew the jail should be
10 run or circumventing me and speaking with my subordinates and
11 telling them to do things counter to how the jail needed to be
12 run.

13 Q. But the -- go ahead. I'm sorry. That "sheriff's
14 administration," you're talking about the Crisler sheriff
15 administration?

16 A. Yes, sir.

17 Q. All right. It had only been in place, though, for some
18 time after Sheriff Vance had died. He was made the interim
19 sheriff by the Board; is that correct?

20 A. Yes, sir.

21 Q. Okay. And he was interim sheriff on the date of this
22 letter, November the 10th -- I mean 10/20/21, he was interim
23 sheriff then?

24 A. Yes, sir.

25 Q. All right. I see on page -- it's what is PX-13, page 3.

1 In that first paragraph beginning "Immediately upon accepting
2 an arrestee" and then you conclude that paragraph with, "This
3 unnecessary drain on scant resources is counter to my e-mail."

4 Could you elaborate on that, if you will, for me? In
5 reviewing the sum total of your letter, what is this about,
6 the scant resources and unnecessary drain on your scant
7 resources?

8 A. Yes, sir. So when someone is arrested off the street by
9 an arresting officer from a municipality and they're presented
10 to the jail as an arrestee, before the jail accepts custody of
11 them, if they identify -- either the jail staff or jail
12 medical staff identify that that arrestee is in need of
13 medical care, they direct the arresting officer to turn around
14 and take that arrestee to get medically cleared for custody.

15 So let's say the arrestee was involved in a fight, has a
16 head wound, and he's bleeding. The jail staff by policy does
17 not accept custody of that inmate because they're not fit
18 medically for confinement. So the arresting officer is
19 directed to take them to the hospital. At that point they
20 don't belong to the Hinds County Detention Center. We don't
21 have to pay for that medical bill.

22 If we accept that arrestee, the minute we accept that
23 arrestee and then turn around and send him out to the
24 hospital, we are going to incur that medical bill, whatever
25 it's going to be. So if we catch it soon enough, we can not

1 only avoid serious medical issues in custody, we can avoid the
2 cost of that.

3 Q. So in this instance on the night of November 8th, someone
4 was arrested, brought to the detention facility. Nursing
5 staff or the booking people thought that the person needed
6 medical attention, and they were following their -- what you
7 thought the -- they were following what the procedures were,
8 and they directed that the officer take the person to go get
9 medical treatment before being booked in; is that --

10 A. That's correct.

11 Q. Is that what happened?

12 A. That's what started to happen.

13 Q. That's what started to happen. And then, I mean, is that
14 the appropriate -- are those the appropriate procedures? Is
15 that what should happen?

16 A. Yes, sir.

17 Q. Okay. Now, in your last paragraph you say, "As dire as
18 the situation here is with detention services and as much
19 effort that is being applied to better the circumstances and
20 move toward compliance, this directive by the sheriff is
21 reckless and dangerous."

22 Now, what directive -- what specific directive are you
23 referring to in that letter?

24 A. At the time, Sheriff Crisler called the jail and spoke to
25 someone in the jail and directed them to accept custody of

1 this arrestee. In doing so, it -- again, in doing so, if that
2 arrestee had come in and had a medical event in custody, he
3 could have been seriously injured. He could have died at a
4 maximum. At a minimum, the minute we were told to accept that
5 arrestee, we were going to incur the cost from that point
6 forward for any medical attention he received outside the
7 facility.

8 Q. And you describe it. You say this directive is reckless
9 and dangerous. Why do you say that directive was reckless?

10 A. Your Honor, anytime you have someone who is -- who has
11 subject matter expertise in an area and you don't -- had he
12 called me, I could have explained this to him, and he would
13 have been better armed with all of the information with which
14 to make a good decision. If he then made the same decision,
15 still having the information that I gave him, then we would
16 have continued to do what we were told to do by the sheriff.
17 But my job as the jail person is to give as much information
18 to the decision-makers about jails that I know they don't
19 have, any more than if I went to NASA, I'm not going to make
20 decisions for NASA without getting all the information about
21 building a rocket that I could get from those subject matter
22 experts.

23 And what was continuing to happen in this sheriff's
24 administration, Sheriff Crisler, that parlayed into the next
25 sheriff's administration was that I was being circumvented so

1 that they could continue -- sheriffs and sheriffs' senior
2 staff could continue to apply law enforcement reasoning, law
3 enforcement remedies to a detention problem, and that never
4 works. It might work by accident once, but that's not a
5 sustainable model for a successful jail.

6 Q. And I'm going to ask you, you used the term "reckless and
7 dangerous," and I'm going to ask you the same question. Why
8 did you say it was dangerous?

9 A. It is dangerous, Your Honor. If the inmate comes in and
10 is clearly in -- is so clearly in need of medical attention
11 and medical clearance for custody that the medical staff and
12 the jail staff say the same thing, "This arrestee needs to be
13 seen, treated, and stabilized before we accept custody," then
14 we know what can happen. If we don't send that inmate out for
15 higher-level treatment at a medical facility than they can get
16 inside and we put them in the holding cell or we have them in
17 a jail. We know what can possibly happen with arrestees in
18 this state.

19 Q. Do you recall how much longer the Crisler -- I guess the
20 Crisler administration was in place after you sent this
21 letter?

22 A. I'm not for sure, sir.

23 Q. Okay. When that administration came to an end, were
24 there any other leadership changes within the organization of
25 the sheriff's department associated with the jail?

1 A. As far as I know, just the sheriff changed.

2 Q. Now, I note also in that the very next sentence of your
3 letter after you describe what you thought was the sheriff
4 actions, you say, "As a detention administrator and expert on
5 jail matters."

6 Now, I'm going to ask you, did you consider yourself an
7 expert on jail matters?

8 A. I do.

9 Q. You were hired by Sheriff Vance. Did Sheriff Vance view
10 you as an expert on jail matters?

11 A. I believe he did.

12 Q. Okay. Now, when you came on to the job, you've described
13 how you learned about the job, but I guess did you have a job
14 description that was given to you by the sheriff's department
15 or Hinds County? Had you ever had a job description?

16 A. No, sir.

17 Q. What were you told you would be doing? I mean, how did
18 you know what to do? I mean, how did -- how was your -- I
19 mean, well, was there an offer letter to you? Was there
20 something in writing to you?

21 A. I don't believe there was, no, sir.

22 Q. Okay. So you showed up on the job.

23 A. I did.

24 Q. What were you asked to do?

25 A. Sheriff Vance asked me to run the jail and get it out of

1 the consent decree, to get it compliant with the consent
2 decree.

3 Q. Did you report to anyone other than him?

4 A. No, sir. And, again, I worked for him for a week, so
5 during that week I reported, I believe, directly to Sheriff
6 Vance.

7 Q. Okay. I guess on your first day of the job, did you have
8 a meeting with any persons affiliated with the detention
9 center?

10 A. I believe my first day on the job was the same day that
11 the Board of Supervisors met, so we met down there, but that
12 wasn't a full meeting, so I believe shortly after that, I just
13 went to the jail.

14 Q. Okay. And as best as you can, tell me about any meetings
15 that you had with anyone, how you were intro- -- you know,
16 you're a new person who came from -- I know how you were
17 introduced to the Court at our status conference, but I'm just
18 trying to find out how you might have been introduced to
19 persons at the detention center. You know, was there a
20 meeting of the correctional officers and "This is your new
21 boss," anything like that done?

22 A. No, sir.

23 Q. What was done?

24 A. Nothing.

25 Q. I'm going to direct your attention to page 7 of that

1 exhibit. I'm going to give you an opportunity to review
2 page 7. Was this part of the information that you sent as a
3 part of your resignation letter?

4 A. No, sir, I don't believe it was.

5 Q. Oh, you don't believe page 7 was?

6 A. No, it -- make a correction. I believe it was, yes, sir.

7 Q. Okay. Tell me what that document is, please.

8 A. So we had had some inmates be sent out by our medical
9 staff for external medical treatment of some acuity, and once
10 those inmates went to their medical appointments, they were
11 refusing treatment. I believe one -- in this circumstance, I
12 believe one of them had a broken jaw, and once he got to the
13 medical center, he refused treatment, and we are not
14 sufficiently able to care for his medical needs in the Raymond
15 Detention Center if he doesn't get treatment for his broken
16 jaw. So this letter -- this e-mail is a request to sheriff's
17 counsel to research this issue and draft up a letter that we
18 could present to medical staff about this issue.

19 Q. Okay. And that was -- you say "sheriff counsel." That
20 was Claire Barker?

21 A. Yes, sir.

22 Q. And the date of it is October 15, 2021, and -- well, I
23 guess your e-mail to her is October the 14th, 2021; right?

24 A. Yes.

25 Q. And you say, "I feel that we need to have something

1 drafted up to present to outside providers." And explain what
2 your recommendation to her was.

3 A. So this e-mail was a follow-up to a phone call that we
4 had had, so I didn't go into detail about what we needed
5 drafted up here. In my previous facilities, counsel would
6 draft up a letter to outside providers telling them that
7 there's a difference with our inmates in custody and whether
8 they can or cannot refuse treatment. And so that's what I was
9 asking Ms. Barker to do here was to research what we could do
10 here in this area to address this.

11 Q. In your review of the policies or whatever, policies or
12 practices there at the detention center, such letter did not
13 exist?

14 A. No, sir.

15 THE COURT: By the way, for the parties, I do note that
16 PX-13, page 7, has a phone number there that I think needs to
17 be redacted, so we need to make sure that redaction -- that
18 redaction will be made by the courtroom deputy, that phone
19 number.

20 I assume that's your personal phone number.

21 THE WITNESS: Thank you.

22 THE COURT: Ms. Summers, you get that? All right.

23 BY THE COURT:

24 Q. Now, returning to that document, though, the last
25 sentence of -- I guess it was your e-mail to Ms. Barker, you

1 said, "There is some urgency with this request as we have an
2 inmate in custody housed in booking with a broken jaw who
3 refused surgery yesterday."

4 Do we know how that -- you describe him as an inmate in
5 custody. Do you know how his jaw was broken? Was that
6 someone -- well, do you know? That's the first question.

7 A. Not to swear to it. My memory is he -- we believe he was
8 in an altercation but didn't admit to being in an altercation,
9 telling medical staff that he had fallen, but I'm not sure.
10 But it happened in -- whatever it was, we believe that it
11 happened while he was in our care.

12 Q. Okay. It happened in the detention center?

13 A. Yes, sir.

14 Q. Okay. Do we know for how long his jaw was broken?

15 A. I don't remember.

16 Q. Do we know if there's an incident report or anything to
17 that effect that accounts for that broken jaw?

18 A. I believe there was, yes, sir.

19 Q. Okay. Direct your attention to page 19. I'll give you
20 an opportunity to review that.

21 You've reviewed it?

22 A. Yes, sir.

23 Q. All right. Tell the Court what this document -- well,
24 first of all, was this part -- was this -- this is an e-mail,
25 I see. Was it included with the attachment that you submitted

1 as a part of your resignation from your duties?

2 A. I don't believe it was, Your Honor.

3 Q. You don't believe this e-mail was?

4 A. No, sir.

5 Q. Well, tell me, then, what is this -- tell me what this
6 e-mail is.

7 A. This e-mail direct- -- or dated November 8th, 2021, from
8 me to Sheriff Crisler was an e-mail after several
9 conversations about --

10 Q. Wait, wait, wait. Who all was copied on that e-mail?

11 A. Anthony Simon, Claire Barker, Kenneth Wayne Jones,
12 Synarus Green, Tony Gaylor, and Tanecka Moore.

13 Q. Tanecka Moore, it's the first time I've seen that name, I
14 believe. Who is that person?

15 A. An attorney with the County, sir.

16 Q. Okay. You may proceed.

17 A. The subject is "Urgent Assistance Requested." I had
18 asked Sheriff Crisler several times about help with staffing
19 at the jail. Staffing at the jail did get worse during my
20 tenure. This document described how bad it was getting by
21 listing the number -- listing the number of posts that we were
22 missing officers on a -- just a given day. I just picked a
23 day, I picked a shift, and listed out the officers -- or the
24 posts that weren't filled by officers on that day and
25 referenced the fourteenth monitor's report where that was

1 addressed as well.

2 Q. And there you say --

3 THE COURT: I'll remind the parties you're responsible
4 for making sure that you have your one representative in the
5 courtroom if you intend to call any persons. I think --

6 MR. SHELSON: Yes, sir. Thank you. I think it's moot
7 in the sense that Mr. Calhoun is -- other than the sheriff,
8 the only other witness -- the only other person on our witness
9 list is Mr. Calhoun, and we understood the Court --

10 THE COURT: No, no. Mr. Calhoun can stay in. Someone
11 else came in who might be a -- I don't want to --

12 MR. SHELSON: Thank you, Your Honor. So the only two
13 people in the courtroom right now on our witness list are the
14 sheriff and Mr. Calhoun.

15 THE COURT: Right. Someone walked in. Mr. Hall is
16 taking care of that, and it was a County administrator.

17 MR. SHELSON: Thank you, Your Honor. We appreciate
18 that.

19 BY THE COURT:

20 Q. Now, in this e-mail you say, "The jail system has fallen
21 below what should be considered minimum staffing levels, and
22 we are now unable to provide basic jail functions and
23 adequately address life safety concerns."

24 Tell me what those basic jail functions are that you
25 thought that you-all could no longer provide as of November

1 the 8th, 2021.

2 A. Yes, sir. So if we look at the list of nine positions
3 that were unfilled on this particular day on this particular
4 shift, we were unable to run pod control in one of the pods.
5 Pod control officers are responsible for opening and closing
6 doors; for watching the monitors, the cameras, surveillance
7 system. So we didn't have an officer for that post. We
8 didn't have officers in -- watching four of the housing units,
9 so they weren't doing -- they weren't -- we weren't doing
10 direct supervision there, and if we're missing two officers
11 for A3 and A4, that left a minimum complement of officers to
12 do wellness checks on all the inmates in all four pods of
13 each -- of all four units in each pod.

14 Q. I want you to go back and explain something to me. You
15 said we were missing two officers in A3, I believe -- A3 and
16 A4. Okay. So one officer was missing out of A3?

17 A. Yes, sir.

18 Q. One officer was missing out of A4?

19 A. Yes, sir.

20 Q. Okay. And that's all in Pod A?

21 A. Yes, sir.

22 Q. Okay. One officer was missing in B-Pod control? Is that
23 what that represents?

24 A. Yes, sir.

25 Q. One officer was missing from B2?

1 A. Yes, sir.

2 Q. One officer was missing from C1?

3 A. Yes, sir.

4 Q. One officer was missing from booking ID?

5 A. Yes, sir.

6 Q. Medical security. You've got two officer posts there in
7 parentheses. What does that mean?

8 A. When we have officers in -- working medical security, one
9 officer is posted in the medical unit to provide security for
10 the clinical functions that go on in the medical clinic. The
11 other officer is responsible for perhaps escorting nurses down
12 the hall to conduct medication pass, to escort mental health
13 personnel down the hall to do their wellness checks, or to go
14 get inmates from the housing units and bring them to the
15 medical unit.

16 So when we don't have a full complement of the officers
17 assigned to medical security, there are times that medical and
18 mental health staff cannot fulfill their medical duties, so
19 they're put off for another day or another shift or another
20 time, but they're not conducted when medical and mental health
21 need them to be conducted.

22 Q. And you mentioned -- is that one officer as a hall escort
23 who's missing?

24 A. Yes, sir. The hall escort officer is also responsible
25 for walking the hall and pulling inmates out of housing units

1 for attorney visits or to go to court or for any other
2 administrative-type functions. Absent someone in that post,
3 then officers assigned to the housing units have to pull the
4 inmates out and they themselves have to leave the housing unit
5 to escort the inmate wherever they need to go.

6 Q. Okay. And then the next item is property room/laundry.
7 Was there a person who's missing from that area?

8 A. Yes.

9 Q. Okay. So -- and this represents persons who were absent
10 on one particular shift?

11 A. Yes, sir.

12 Q. And at the time the shift was a -- what, an eight-hour
13 shift?

14 A. Yes.

15 Q. Your -- that sentence says, "We are now unable to provide
16 basic jail functions." You've described that. But you go on
17 to say, "and adequately address life safety concerns." Tell
18 me what you meant by that.

19 A. So to adequately address life safety issues in the jail,
20 we have to be conducting robust surveillance of inmates. We
21 have to be watching inmates, interacting with inmates,
22 responding to inmates, preventing inmates from whatever
23 they're up to. We have to provide security in the medical
24 unit. We have to facilitate medical treatment to the inmates.

25 Not facilitating medication pass or medical or mental

1 health attention can be a life safety issue. Not watching the
2 cameras in a pod control can be a life safety issue because
3 inmates are completely unsupervised for large periods of time.

4 Q. You -- in the next paragraph, you say, "I've attached a
5 roster from yesterday at RDC as an example," and I presume
6 page 21 is that roster; is that correct?

7 A. That's correct.

8 Q. All right. "It shows how desperately short-handed we are
9 even with no one out sick, on vacation, *et cetera*. The
10 officers reflected on the roster as 'officers off today'" --
11 that's in quotes -- "'officers off today' are on their
12 regularly scheduled days off, eight-hour shifts. With this
13 complement of officers, we are not able to provide direct
14 supervision, not able to" -- well, let's talk about not able
15 to provide direct supervision.

16 Was direct supervision required?

17 A. It's my understanding from the consent decree -- first of
18 all, that facility was designed, physically designed, to be a
19 direct-supervision facility, and at one time it was run as a
20 direct-supervision facility. It's my understanding that the
21 consent decree requires us to be a direct-supervision facility
22 again. And we cannot be a direct-supervision facility without
23 officers stationed in those pods 24 hours a day.

24 Q. Even if it is not -- even if direct supervision is not
25 required, in your view, is direct supervision important?

1 A. It is critically important, yes, sir.

2 Q. You also indicate there -- in addition to not being able
3 to provide direct supervision, you say, "not able to provide
4 breaks." Tell me -- that was important enough for you to put
5 it in, so tell me, why is that important?

6 A. So changing focus from inmates to my staff, to the staff,
7 we weren't able to provide respite breaks for officers. If
8 there's no one to come -- if an officer is working pod control
9 and running the cameras and opening and closing doors,
10 watching for fires, watching for disturbances, and that
11 officer needs to take a break during their eight-hour shift to
12 go to the restroom or to take a meal or just to rest their
13 brain and there's no one to replace them, then they either
14 don't go on a break and don't rest their brains and fatigue
15 themselves, so that perhaps they're not operating at peak
16 capacity as officers, or they take a break and leave their
17 post unattended.

18 Q. And you say -- associated with not being able to provide
19 things, you said, "not provide inmate meals on time." Why is
20 that in this memo?

21 A. When there are no -- when there is not a sufficient
22 amount of officers to go get the meal carts from the kitchen,
23 bring them down the hall, and distribute them to inmates and
24 we go hours past when the mealtime is scheduled to be
25 delivered, that can cause a great disturbance in our inmate

1 population when they're not fed on time or when they're fed
2 cold meals that were hot when they came out of the kitchen but
3 by the time they found officers enough to go get the meal
4 carts, the meals are cold. That leads to inmate disturbances.
5 Q. And then your letter goes on to identify those persons --
6 those category of people or positions that were vacant or
7 absent because no correctional officer there on staff, and
8 then you -- the last paragraph of the -- of that letter -- of
9 that memo or e-mail, you say, "Below are sections from the
10 fourteenth monitor's report that I have copied." And that
11 portion of the report says "Recognizing all of the above noted
12 problems coupled with the fact that the sheriff has been
13 tasked with adequately staffing the jail system," and so forth
14 and so on. It's there. It's in evidence.

15 Why did you think it was necessary to put in this e-mail
16 a quote from -- I guess at that time it was the most recent
17 monitor's report; is that correct?

18 A. That is, yes, sir.

19 Q. So why did you feel the need to put that in this e-mail?

20 A. So past relationships I've had with previous sheriffs,
21 because I've always worked for a sheriff's office, I felt it
22 my role to do the heavy lifting for my boss, and if I could
23 put everything in writing that they might need for leverage if
24 they needed help getting something to help the jail, if I
25 could put it all in writing, all the justification, so that

1 they could then turn around and just give my memo to whoever
2 they needed to give it to to get something for the jail -- I
3 don't know if I'm explaining this very well, but I want to
4 document all the leverage I could possibly think of to help
5 the sheriff leverage a change or to -- this provides a service
6 to my boss so that he can see all the information that's
7 available to make his priority decision.

8 If I do a lesser professional job and I just say,
9 "Sheriff, we need more people. We're short-handed," then he
10 doesn't know how to prioritize my request because nothing in
11 that request indicated a sense of urgency, and another aspect
12 of his agency might give rise to a higher sense of urgency in
13 that moment for staffing.

14 So if I can provide all the justification I possibly can
15 to educate my boss to make the best decision, that's why I
16 added that last paragraph from the monitor's report as if to
17 say, "Sheriff, this is also on the monitor's radar," to help
18 increase awareness to what the sense of urgency was not just
19 from me and from the facts that I presented but also from the
20 monitors.

21 Q. I want to turn your attention, same e-mail and going back
22 to the first paragraph, the second sentence says "I am
23 respectfully requesting immediate assistance with staffing the
24 jail until such time as a recruiting and retention plan bears
25 fruit and we can adequately staff the facilities with

1 detention officers as required by the federal government."

2 Let me ask you this question: First of all, did you ever
3 receive a response to this e-mail?

4 A. No, sir.

5 Q. From no one, a written response?

6 A. No, sir.

7 Q. Did you ever get a verbal response to this e-mail?

8 A. No, sir.

9 Q. Did anyone ever talk to you about fulfilling the requests
10 that you have here, this need for immediate assistance with
11 staffing?

12 A. No, sir.

13 Q. At the particular time you said, "until such time as a
14 recruiting and retention plan bears fruit," did the County
15 have a recruiting and retention plan in place on this
16 particular day?

17 A. No, sir. Not yet.

18 Q. Prior to your -- I may have asked -- I'm asking it in a
19 different way now, but prior to your -- I think you've already
20 said you never received a response to this. You left
21 January 31st?

22 A. Yes, sir.

23 Q. Right? Of 2022; right?

24 A. Yes, sir.

25 Q. You never received -- obviously this letter was written

1 to Sheriff Crisler, but there were others who were copied.

2 Did you ever get a response at all to the next sheriff -- at
3 all from the next sheriff, which was Sheriff Jones?

4 A. No, sir.

5 Q. Did you and Sheriff Jones ever talk about the staffing
6 needs of the facility?

7 A. Yes, sir, we did.

8 Q. Okay. And what were those conversations about?

9 A. They were similar --

10 Q. If you recall.

11 A. Yes, sir. They were similar in nature to this e-mail
12 request. It was an in-person meeting asking for help with
13 staffing with Sheriff Jones for the jail.

14 Q. Did any of the other people cc'd on that e-mail respond
15 in any way?

16 A. No, sir.

17 THE COURT: Now, for the parties I note -- I just want
18 to make sure my record is clear. Your PX page 16 is a blank
19 sheet. It's blacked out. Is that intentionally done in some
20 way? I -- just for your record so that your record -- so that
21 your record could be clear.

22 MS. COWALL: Your Honor, we're checking on this. One
23 moment, please.

24 THE COURT: Okay.

25 MS. COWALL: Your Honor, that page that was blacked out

1 was redacted because it was part of a medical record. It
2 probably was overredacted, and we're happy to provide the
3 Court with a version that does not contain the redactions.

4 THE COURT: Whatever the pleasure of the parties are.
5 It's your record, not mine, so --

6 MS. COWALL: We'll do that, Your Honor.

7 THE COURT: Okay. Are we ready to resume or... Are
8 we? I mean, we don't -- I mean, are we ready?

9 MS. COWALL: Yes, Your Honor. We'll have to take some
10 time to get the Court an unredacted version and request it be
11 filed under seal. We don't have that available at this very
12 moment.

13 THE COURT: Okay. No problem, unless we get an
14 objection from the County in that regard.

15 MR. SHELSON: We can make that decision, Your Honor,
16 once we see it.

17 THE COURT: Once you see it?

18 MR. SHELSON: Yes, sir.

19 THE COURT: Okay.

20 BY THE COURT:

21 Q. Well, let me ask you this, Major Bryan. And we're
22 wrapping up with the questions that I have, I think.

23 Beginning at P-9 -- excuse me, page 9, rather, page 9 I
24 believe are the policy with the subject of the chapter being
25 "Health Care," the subject being "Health Care Management."

1 Page 9 shows Procedure 13-101, "General."

2 Page 10 -- well, you go from -- you know, again, I was
3 reading these, and I just want to make sure. I guess it's
4 your testimony that you also included portions of the
5 procedures that you -- well, let me ask you: Are these
6 portions of the procedures that you contend that -- provided
7 for how the nursing and booking people should have responded
8 in the November 8th or 9th incident -- November the 8th
9 incident?

10 A. Yes, sir.

11 THE COURT: Now, I notice page 9 is what appears to be
12 a page 1 of Policy Number 13-100. Page 10 of the exhibit
13 shows page 3. Should there be a page 2?

14 I'm asking the people who prepared this exhibit, and it
15 looks like every odd page is here and none of the even pages.
16 I'm just asking so that the record could be clear, because it
17 does not look like all the paragraphs of Procedure 13-101 are
18 in evidence -- I mean is a part of this.

19 BY THE COURT:

20 Q. And I just want to know: Did you make -- what did you --
21 you said you understood that you were doing page 1 here, you
22 know, understanding that matters of public record may -- the
23 sheriff's office would be able to report to the public this is
24 your letter of resignation, and you said you attached other
25 documents.

1 I just want to know: Of the documents that's submitted
2 here, those are the documents, because I think you've already
3 testified that you do not believe that page 19 of the exhibit
4 was attached as a part of it. But of the procedures that you
5 attached, are those -- the ones that are included in that
6 packet, would that include all the pages that you would have
7 made part of the letter of resignation?

8 A. So, again, Your Honor, I'm not -- I cannot recall if the
9 e-mail about the staffing shortage was part of the resignation
10 letter. I can't recall one way or the other. I do recall
11 that the policies were included.

12 Q. Okay. The full -- now, does this represent the full
13 policies that you provided?

14 A. So I can't recall if it had the even pages.

15 Q. Okay.

16 A. But I did include the policy.

17 Q. And tell me, why did you include either all or a portion
18 of the various policies that you included?

19 A. It's always been my intent as a jail administrator to
20 take every opportunity I can to educate everyone on jail
21 operations, because I find that many people involved with the
22 jail know very little about how it should be correctly run.
23 They might know a lot about how it has been currently running,
24 but every chance I get to educate anybody involved in the
25 jail, I take that opportunity.

1 Part of that is to show, here is the policy. Here's why
2 detention staff was doing what they were doing in that booking
3 area during that November event, to educate the sheriff on
4 this is why what you said to them was counter to the policy.
5 So that's the intent of including the policies, Your Honor.

6 Q. Okay. Now, again, you left employment with the County on
7 January 31st, 2022. You began working for a new sheriff,
8 Sheriff Jones; is that correct?

9 A. Yes, sir.

10 Q. Okay. So from the time that you were there, you worked
11 under Sheriff Vance, Interim Sheriff Crisler, and then Sheriff
12 Jones?

13 A. Yes, sir.

14 Q. Is that correct?

15 Now, at some point in time before -- between Vance's
16 death and Crisler's appointment as interim sheriff, somebody
17 served as -- somebody, I mean, because there was no sheriff in
18 place. Do you know who that person was?

19 A. I believe that was Mr. Eric Wall.

20 Q. Did you ever have any sort of conversation with Mr. Eric
21 Wall?

22 A. I did as part of a larger conversation when Sheriff Vance
23 was here, but I don't recall if I had a meeting with Mr. Wall
24 while he was serving in between those two administrations.

25 Q. All right. And that period was not very long, was it?

1 A. No, sir.

2 Q. All right. Now, do you know where Sheriff Crisler is? I
3 mean, do you know if he holds any position in the County
4 organization at this time?

5 A. At the time I left, he was the director of the
6 Henley-Young youth facility.

7 Q. On your letter of November 10th, 2021, the letter of
8 resignation, you say, "During the next three months, as the
9 County retains my replacement, I will continue to work as
10 diligently as I have since I've been here and will help my
11 successor in their transition."

12 Did you discuss with anyone about assisting the -- your
13 successor in the transition?

14 A. No, sir.

15 Q. Did you assist in any way?

16 A. I didn't have a successor while I was there.

17 Q. Okay. You didn't have a successor while you were there?

18 A. Right.

19 Q. All right. As of November the 10th, you were willing to
20 aid any successor in your transition?

21 A. Yes, sir.

22 Q. Were you willing to aid anyone in your -- any successor
23 from January 31st, 2022?

24 A. Yes, sir.

25 Q. Now, I think there was some testimony -- well, let me ask

1 you this: Based on your conversations with Sheriff Jones
2 about the detention center, do you know if you -- well, first
3 of all, did you have any conversations with Sheriff Jones
4 about the detention center?

5 A. We did.

6 Q. Based on those conversations -- approximately how often;
7 how many?

8 A. Maybe two.

9 Q. Two? Did you-all have a staff meeting or anything in
10 that regard to talk about the ongoings of the detention
11 center?

12 A. No, sir.

13 Q. Did you-all discuss the consent decree or the stipulated
14 order in any way?

15 A. Nothing more than a reference to it during a
16 conversation.

17 Q. And what -- any -- you say a "reference to it." Tell me
18 about that discussion about the detention center.

19 A. We had a meeting regarding the termination of jail staff.
20 In that meeting was Sheriff Jones, Anthony Simon, myself, and
21 Lieutenant Cheryl Childs from investigations, and there was
22 some disagreement between Sheriff Jones and I about my
23 participation in a discussion or decision-making process about
24 personnel issues with the jailers, and when I said to Sheriff
25 Jones that it was part of the consent decree that the jail

1 administrator be an integral part of personnel matters with
2 detention officers, his words to me, and I quote, were, "Prove
3 it."

4 So I pulled out the consent decree and showed him the
5 section that was relevant, and he read it and told me that he
6 disagreed and interpreted it differently than that. So that
7 was what I would reference. That would have been the
8 reference to the consent decree during the course of the
9 conversation.

10 Q. Any meeting about Sheriff Jones would have started
11 sometime after the Court entered its show cause order; right?
12 If I tell you that the record would reflect that the Court
13 entered its show cause order after the polls closed on the
14 night of the runoff election, then Sheriff Jones would have
15 become in office at some point after that. If I make that
16 representation.

17 MR. SHELSON: We'll stipulate to that, Your Honor.

18 THE COURT: Okay. All right.

19 BY THE COURT:

20 Q. Was there a conversation between you and Sheriff Vance --
21 excuse me, Sheriff Jones with respect to this court's show
22 cause order?

23 A. No, sir.

24 Q. Okay. You submitted a declaration as a part of some
25 documents, and I think the lawyers have spoken with you about

1 that. Was Sheriff Jones a part of you -- assisting with you
2 preparing your declaration?

3 A. No, sir.

4 Q. Okay. What was your perception of how -- you had dealt
5 with Sheriff -- well, let me ask you this: When you came on
6 with Sheriff Vance, and I realize the overlap there was a week
7 or so, but even prior to that, was it your understanding that
8 you would have a part in -- as a jail administrator, you would
9 have some say-so with respect to the management of employees
10 there?

11 A. I so believed that from Sheriff Vance that I closed part
12 of my consulting business, uprooted my entire life, came out
13 of retirement, and moved to Mississippi because I so believed
14 Sheriff Vance when he told me that I would be able to run the
15 jail. I think the words that he or someone in his
16 administrative staff said to me was, "We're going to give you
17 the keys to the kingdom and let you do what you do." That's
18 how deeply I believed in Sheriff Vance.

19 Q. Now, what was your -- you alluded to -- well, not you
20 alluded to. We've talked about the letter of resignation
21 submitted to Sheriff Crisler, and I -- what was your
22 perception, if you will, about the priority of the consent
23 decree based on your conversations with Sheriff Jones?

24 A. Given that we never did have a meeting, a strategic plan,
25 or a targeted conversation about the consent decree, it

1 appeared that it wasn't as high a priority as I felt it should
2 have been.

3 THE COURT: Those are all the questions that the Court
4 has, and I know they turned out to be more than what I sort of
5 indicated to the parties on yesterday. But I've covered the
6 issues, I believe, that I wanted to cover.

7 I turn to the United States. You may follow up based
8 on some of the questions that I've asked.

9 MS. COWALL: Thank you, Your Honor. I'll do that.

10 **FURTHER DIRECT EXAMINATION**

11 **BY MS. COWALL:**

12 Q. I'd like to pull up Plaintiff's Exhibit 13, please. And
13 if we could turn to page 3 of that exhibit. And if we look at
14 that first paragraph, the second sentence, stating "This
15 unnecessary drain on scant resources is counter to my e-mail
16 to the sheriff on Monday, November 8, 2021, (see e-mail and
17 shift roster attachments) where I address an urgent need for
18 staffing support."

19 Ms. Bryan, does that indicate to you whether the e-mail
20 we've been discussing was attached to your letter of
21 resignation?

22 A. Can you ask that again, please?

23 Q. Sure. If you look at the second sentence in the first
24 paragraph on page 3 of PX-13, does that refresh your
25 recollection as to whether the e-mail regarding staffing that

1 we've been discussing was attached to your letter of
2 resignation?

3 A. Yes, I believe it was.

4 Q. So is it your recollection that the e-mail regarding
5 staffing that we've been discussing was indeed attached to
6 your letter of resignation sent to the County?

7 A. Yes.

8 MR. SHELSON: Objection. Leading.

9 THE COURT: Objection overruled.

10 BY MS. COWALL:

11 Q. I just have a few follow-up questions as to what we've
12 been discussing this morning, Ms. Bryan. When you spoke about
13 the detainee who was accepted into the jail contrary to jail
14 policy, if the jail had turned this detainee away, who would
15 be responsible for watching that detainee?

16 A. The arresting officer.

17 Q. And if the jail accepted the detainee into the jail, who
18 would be responsible for watching that individual?

19 A. Jail staff.

20 Q. So did that also have an effect on your correctional
21 officer staffing?

22 A. It did.

23 Q. And we talked a bit about some information on page 19 of
24 PX-13.

25 MS. COWALL: If we could pull that up, please.

1 BY MS. COWALL:

2 Q. Now, under the list of posts where officers were not
3 present during this date, we talked about how one officer was
4 missing. Did that mean there was any officer on the posts
5 listed in this list of nine posts?

6 And if you could take them one by one, that might be
7 easier. So let's start with A3. Does this mean there was
8 anybody on A3 that day?

9 A. No.

10 MR. SHELSON: Objection. Leading.

11 THE COURT: Objection overruled.

12 A. As indicated by the shift post assignment on page 21 of
13 this exhibit, A3 was blank, indicating that there were no
14 officers assigned to that post.

15 BY MS. COWALL:

16 Q. So it's not just that one officer was missing on A3; it's
17 that nobody was on A3; is that correct?

18 MR. SHELSON: Objection. Leading.

19 THE COURT: Don't lead the witness.

20 BY MS. COWALL:

21 Q. What does this indicate with regard to A3 with regard to
22 whether any officer was on the unit that day?

23 A. As reflected on the post assignment roster, when you see
24 A3 and no officer assigned to that post, that indicates that
25 no officer was on that post. So --

1 Q. And is that -- I'm sorry.

2 A. I'm sorry. So if officers needed to go to A3, they would
3 come from one of the other posts that they were on, and they
4 would leave that post to go to A3 to attend to whatever needed
5 to happen in A3.

6 Q. And is that the case for all the posts listed in that
7 list of nine?

8 A. It is.

9 Q. Now, if you look further down on that same page to the
10 reference from the fourteenth monitor's report, there's a
11 reference to the recent transfer of three detention officers
12 to patrol. Do you know what that's referring to?

13 A. I believe this was the time frame where there were three
14 detention officers who were also law enforcement certified and
15 they were pulled out of the jail and put on patrol.

16 Q. Was that the only time it happened?

17 A. The only time what happened? I'm sorry.

18 Q. Oh. Were you aware of any other times that officers were
19 pulled from detention to other parts of the sheriff's office?

20 A. Yes. During my tenure that happened -- that did happen
21 where detention officers holding detention positions were
22 taken from detention services and transferred to the
23 operations in various positions there.

24 Q. And you discussed some meetings with Sheriff Jones in the
25 context of references to the consent decree. Did your

1 meetings with Sheriff Jones also address your requests for
2 additional jail staffing?

3 MR. SHELSON: Objection. Leading.

4 THE COURT: Objection overruled.

5 A. Yes.

6 BY MS. COWALL:

7 Q. What did Sheriff Jones say regarding your request for
8 additional jail staffing in those meetings?

9 A. So in those conversations, I offered some suggestions on
10 how that could happen, how law enforcement could be freed up
11 to come work in the jail temporarily. The sheriff denied
12 those suggestions. He said that he wasn't going to support
13 those. And then after that I asked him if he had any
14 suggestions on how we could reallocate sheriff's resources to
15 prioritizing the jail, and he said he did not.

16 MS. COWALL: I have nothing further, Your Honor.

17 THE COURT: Thank you.

18 Mr. Shelson, you may proceed.

19 MR. SHELSON: Your Honor, defendants request a
20 30-minute recess to prepare their examination.

21 THE COURT: A 30-minute recess?

22 MR. SHELSON: Yes, Your Honor.

23 THE COURT: Okay. Well, before we do that, then --
24 because you might need more than 30 minutes, because I got a
25 couple of other questions.

1 MR. SHELSON: Yes, sir.

2 THE COURT: And the Government will have an
3 opportunity. And I'm sorry.

4 **EXAMINATION**

5 **BY THE COURT:**

6 Q. Major Bryan, page 21 of P-13, this was the post
7 assignment sheet that you attached to your e-mail of November
8 the 8th, 2021?

9 A. Yes, sir.

10 Q. Okay. And it identifies -- your e-mail identifies the
11 positions that were vacant on that date because people were
12 off work, basically; is that right?

13 A. Yes, sir.

14 Q. Okay. I just want to know this: On your sheet there,
15 it's the second shift under A-Pod floor. A1 identifies a
16 person who was there, Princess Gardner; correct?

17 A. Yes, sir.

18 Q. A2, Marcus Wilson was there. A3 -- well, first of all,
19 approximately how many inmates are in A1?

20 A. I don't know off the top of my head. There's about 60 in
21 each.

22 Q. In each...?

23 A. Unit.

24 Q. In each unit. And is A a unit?

25 A. A is a pod.

1 Q. A is a pod.

2 A. A1 would be a unit. A2 would be a unit.

3 Q. So each pod holds approximately 200 people?

4 A. Yes, sir.

5 MR. SHELSON: No.

6 THE COURT: I'm asking. I know that would be 240 based
7 on what she said.

8 MR. SHELSON: I'm sorry. Is Your Honor asking the
9 capacity or how many people were there at --

10 THE COURT: I'm trying to figure out how many people --
11 we can go back and look at the records on that particular day,
12 I guess. That might be in a particular monitor's report. But
13 I'm just trying to find out. Obviously this is from November
14 the 7th, 2021.

15 BY THE COURT:

16 Q. So how many persons does a pod hold, approximately?

17 A. It varies. About 64.

18 Q. It's designed to hold a pod?

19 A. About 64.

20 Q. Sixty-four people?

21 A. Yes, sir.

22 Q. Okay. So in A1, is it fair to say 25 percent of that 64
23 is in A1?

24 A. To clarify, each unit holds approximately 64. Each of
25 the four units holds --

1 Q. Each of the four units -- A1 would hold 64?

2 A. Yes, sir.

3 Q. A2 would hold approximately 64?

4 A. Yes, sir.

5 Q. A3 would hold approximately 64?

6 A. Yes, sir.

7 Q. But on this day on this shift, nobody was in A3?

8 A. Correct.

9 Q. Was somebody supposed to be in A3?

10 A. Yes, sir.

11 Q. A4. Nobody was on A4; is that correct?

12 A. Yes, sir.

13 Q. Was somebody supposed to be on A4?

14 A. Yes, sir.

15 Q. Were detainees there in A4 on that day?

16 A. Without having the proper records, I would presume so,
17 that that unit was full, was -- had -- occupied.

18 Q. Occupied. I'm not talking about full, but did they have
19 any detainees in that particular unit?

20 A. Yes, sir.

21 Q. To your knowledge?

22 A. Yes, sir.

23 Q. Any in A3 on that day?

24 A. Again, without having the records in front of me, I
25 assume that it was occupied.

1 Q. Okay. All right. With respect to the B-Pod floor that's
2 referenced here, there's an individual who's there at B1.
3 There's a name there. There's no name at B2. Would there be
4 a person who's expected to be on B2?

5 A. So while I was there, Your Honor, there were varying
6 stages of construction going on, and some of the units at some
7 points were empty of inmates. I can't say with a certainty
8 where inmates were housed. To say that they all would have
9 been occupied, I don't want to make that assertion without
10 having the documents in front of me, but I can assure you that
11 these posts that are vacant on the sheet, some of them were
12 occupied with inmates.

13 Q. And the ones specifically that you mentioned in your
14 e-mail you had identified as ones that -- that's P-19?

15 A. Yes, sir.

16 Q. I mean page 19. I'm sorry. Page 19 in your e-mail, you
17 list them, some, as we talked about, where there were persons
18 who were not on those particular posts on that given day?

19 A. Yes, sir.

20 Q. Okay. So, again, A3 would have housed inmates on that
21 day?

22 A. Yes, sir.

23 Q. A4 would have housed inmates on that day?

24 A. Yes, sir.

25 Q. And you have B-Pod control on this sheet, page 19, and

1 B-Pod control on your post assignment sheet is vacant?

2 A. Yes.

3 Q. So somebody was supposed to be in B-Pod control?

4 A. Yes, sir.

5 Q. Now, does that mean that there was no one in B-Pod
6 control?

7 A. It was likely that the officer assigned to B1 went into
8 B-Pod control to watch the cameras.

9 Q. Okay. So that person could just watch the cameras but --

10 A. They would also have been responsible for wellness checks
11 on inmates in B1 and B2.

12 Q. And the way that you generally staff it is that at least
13 someone is in control and at least someone is in each pod?

14 A. In each unit of the pod, that's correct, yes, sir.

15 Q. In each unit of the pod. So in C1, the records would
16 necessarily show at some point, I guess, or could show that
17 C1, no one was there, according to the post assignment sheet;
18 others were in C2, C3, and C4. So there were at least some
19 inmates in C1?

20 A. Correct.

21 Q. Thank you, Major Bryan.

22 THE COURT: I'll give the -- the United States will
23 have an opportunity to resume after this 30-minute break,
24 because I'm going to give it to the County, this 30-minute
25 break, and then we will start up at that point.

1 MR. SHELSON: One thing for consistency, Your Honor.
2 Exhibit P-13, page 20, also has the major's cell phone number
3 on it, so if that could be redacted as well. I just wanted to
4 point that out.

5 THE COURT: Thank you so much, Mr. Shelson. Page 20?

6 MR. SHELSON: It's at the top of the page.

7 THE COURT: Right. We'll make sure it's redacted on
8 the record.

9 We'll be in recess until 11:05.

10 (A recess was taken.)

11 THE COURT: You may be seated.

12 Does the Government wish to follow up with the matters
13 after this break based on the questions that I've asked?

14 MS. COWALL: Yes. Just a few follow-up questions, Your
15 Honor. But before we start, we conferred with defense counsel
16 during the break, and they have no objection to submitting to
17 the Court an unredacted version of PX-13 and requesting that
18 it be under seal.

19 THE COURT: PX-13 or just that one document in PX-13?

20 MR. SHELSON: Your Honor, if I could confer with
21 counsel?

22 THE COURT: Okay.

23 MS. COWALL: So what we're proposing is that there be
24 two versions of PX-13 and this second version could be, for
25 example, PX-13-1, and it would be unredacted and we would

1 submit it under seal.

2 THE COURT: Y'all agree to do it?

3 MR. SHELSON: Yes, Your Honor, we agree.

4 THE COURT: And is that suitable, Ms. Summers? We'll
5 figure it out. Okay. All right.

6 Oh, Major Bryan, you may return to the stand, please.

7 MS. COWALL: I have one more housekeeping matter before
8 we start, actually.

9 THE COURT: Yes.

10 MS. COWALL: And it's with regard to the question about
11 only the odd-numbered pages being included in that medical
12 policy attached in PX-13. That's the way that the United
13 States received PX-13, that document. We received it from the
14 County's compliance coordinator, but if the Court wants to see
15 a full version of that, it's Defense Exhibit 77.

16 THE COURT: Okay. Thank you so much. I just wanted to
17 make sure that PX-13 is fulsome, I mean, you know, it's what
18 the United States intended to put in evidence. That's all.

19 MR. SHELSON: Just so the record's a little more clear,
20 there's actually two different policies attached to
21 Exhibit P-13, and one of them, one of those two, has been
22 admitted into evidence as D-77. The other one has not been
23 admitted into evidence.

24 THE COURT: Okay. All right. Thank you.

25 **FURTHER REDIRECT EXAMINATION**

1 **BY MS. COWALL:**

2 Q. Ms. Bryan, before the break, we talked about an example
3 roster attached to your letter of resignation.

4 MS. COWALL: Can we go ahead and pull up PX-13, again,
5 please, and could we look at page 19.

6 BY MS. COWALL:

7 Q. And we talked about those two medical security posts that
8 were unfilled on that date. Ms. Bryan, how often were the
9 medical security posts short-staffed during your tenure as
10 jail administrator?

11 A. Without having an array of records, on average we
12 typically had just one medical security officer.

13 Q. And did that impact the delivery of medical and mental
14 health care?

15 A. It did.

16 Q. How so?

17 A. I would get e-mails from the health service administrator
18 or from other mental health staff documenting the times that
19 they couldn't provide their services because we didn't have
20 staff to escort them.

21 Q. And we also talked about units occupied by inmates or
22 detainees that operated without any officer assigned. Do you
23 recall that?

24 A. Yes.

25 Q. How often did that happen, that there were occupied units

1 without any officer assigned?

2 A. Regularly.

3 Q. And when you say "regularly," is that -- is there any way
4 you can quantify that?

5 A. On any given day -- in general, on any given day on any
6 given shift -- let me back up.

7 I don't recall ever seeing a post assignment sheet that
8 was full while I was there. So on any given day on any given
9 shift, there were vacancies.

10 Q. Does that impact safety and security in the jail?

11 A. Of course.

12 Q. How so?

13 A. Inmates require supervision. Policy requires wellness
14 checks. Jail operations require officers to do those
15 ancillary functions. Anytime we don't have staff to fulfill
16 those duties, they get left undone. And in the jail, lots of
17 things are priorities. Lots of things can be tied either
18 directly or indirectly to life safety. So it is -- it is of
19 great impact to have low staffing levels, consistent low
20 staffing levels.

21 MS. COWALL: Thank you, Ms. Bryan.

22 I have nothing further at this time.

23 THE COURT: Okay. Thank you.

24 MR. SHELSON: May I proceed, Your Honor?

25 THE COURT: Yes, you may.

FURTHER RECROSS-EXAMINATION

BY MR. SHELSON:

Q. Good morning, Major.

A. Good morning, sir.

Q. Major Bryan, when you were the jail administrator, did you have a written employment contract with the County?

A. I did not.

Q. Did you ever draft or prepare a strategic plan?

A. I presented plans of action.

Q. Right. And do you agree with me that when the Court was asking you questions, you made specific reference to a strategic plan?

A. Yes.

Q. And that's the testimony I'm talking about. So specifically with regard to a strategic plan, did you ever draft one?

A. I never drafted anything titled "Strategic Plan," no.

Q. We visited about this the first time you were here. On approximately November 3rd, 2021, did Sheriff Crisler offer that detainees in A-Pod could be moved to Madison and Rankin Counties?

A. Did he say that to me?

Q. Yes. I think your testimony on last time was -- the answer to that question was yes.

A. So there was a meeting with County officials where I

1 believe Sheriff Crisler offered that as an option, to move
2 inmates out to adjoining counties.

3 Q. And did you reject that offer?

4 A. Again, it was a generalized meeting. He wasn't directing
5 that to me, but I raised some concerns about that because we
6 hadn't had a chance to sit and talk about what that would
7 entail.

8 MR. SHELSON: May I display this, please?

9 BY MR. SHELSON:

10 Q. You agree your resignation letter that's marked
11 Exhibit P-13 is dated November 10th, 2021?

12 A. Yes.

13 Q. Is the meeting that you're talking about where the issue
14 of moving A-Pod detainees to Madison and Rankin Counties, did
15 that meeting occur before November 10th, 2021?

16 A. I don't recall when that meeting was, but if it was
17 November 3rd, then, yes, it would have been prior to this
18 letter.

19 Q. All right. Page 1 of Exhibit P-13, Major Bryan, do you
20 remember the Court asking you some questions about whether you
21 were willing to help your successor in transition?

22 A. Yes, sir.

23 Q. And you testified that you never had a successor; did I
24 get that correct?

25 A. Yes.

1 Q. But is it your position that you rescinded this
2 resignation?

3 A. Yes.

4 Q. Are you able to see this, Major?

5 A. Yes.

6 Q. Thank you. I'm turning to page 3 of Exhibit 13, this
7 first highlighted sentence where it talks about an unnecessary
8 drain on scant resources. Is that in reference to medical
9 care?

10 A. That sentence is in reference to the staffing support in
11 that e-mail.

12 Q. Okay. And so what costs are you complaining about that
13 should not have fallen on the detention center?

14 A. So that sentence that refers to an unnecessary drain with
15 regards to staffing support, when we accept an arrestee into
16 the facility and then have to transport them to the hospital,
17 then that falls on detention staff to do that transport, not
18 just transporting but staying with the inmates while they're
19 at the hospital for treatment.

20 Q. But are you suggesting that ultimately somebody other
21 than the County would have bore those costs?

22 A. So if we don't accept the arrestee?

23 Q. Right.

24 A. It was my understanding that if we do not accept that
25 arrestee into custody and have the arresting officer from the

1 municipality take them to the hospital, then those costs are
2 not borne by us.

3 Q. Who is "us"?

4 A. The County.

5 Q. That's your understanding?

6 A. That was my understanding, yes.

7 MR. SHELSON: May I approach the witness, Your Honor?

8 THE COURT: You may.

9 BY MR. SHELSON:

10 Q. Major Bryan, is Exhibit D-77 one of the two policies
11 that's attached to Exhibit P-13?

12 A. Yes.

13 Q. Do you know one way or the other whether the odd-numbered
14 pages are omitted from P-13 because you just didn't copy them?

15 A. I don't know why they're omitted.

16 MR. SHELSON: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 BY MR. SHELSON:

19 Q. I've handed you a copy of Exhibit P-13. Will you turn to
20 page 9, please. Is this Policy Number 13-100?

21 A. I'm sorry. The pages aren't numbered in this packet.

22 Q. Is this Policy Number 13-100?

23 A. Yes.

24 Q. Okay. So what policy are you saying was violated?

25 A. This policy.

1 Q. I know. What specific provision of that policy are you
2 saying was violated?

3 A. Can you give me a minute to review the entire policy to
4 select those areas?

5 Q. Sure.

6 A. So it would begin with Section 13-101, subsection 2,
7 where it says, "Health care-related judgments are made by the
8 physician, psychiatrist, nurse practitioner, or dentist
9 working under contract with HCDS."

10 Q. What provision was that?

11 A. 13-101, subsection 2.

12 Q. Major Bryan, let me stop you there. Isn't Policy 13-100
13 applicable to once the detainee is already at RDC?

14 A. Right. So that arrestee was at RDC.

15 Q. Right. He would -- let me rephrase that.

16 13-100 applies to people who are already admitted as
17 detainees at RDC; correct?

18 A. I don't know. I'd have to review the --

19 Q. All right. Let's move on, then. Let me show you -- let
20 me just display this to you.

21 MR. SHELSON: Well, first of all, may I confer with
22 counsel?

23 THE COURT: Yes, you may.

24 MR. SHELSON: So what I'm about to show the witness
25 were two instances where there should be a redaction where

1 there's not, so can we not display this beyond the witness?

2 THE COURT: Okay. All right.

3 MR. SHELSON: I can deal with it, Your Honor.

4 THE COURT: Can you show it to her?

5 MR. SHELSON: Yes, sir.

6 BY MR. SHELSON:

7 Q. I'm going to ask you about that page, Major. If I can
8 take my doc- --

9 THE COURT: If you want to -- I'm sorry. If you want
10 to retrieve it, Ms. Summers can assist you now.

11 MR. SHELSON: Thank you, Your Honor.

12 BY MR. SHELSON:

13 Q. I'm going to ask you some questions about that. So do
14 you now know who I'm talking about when I --

15 A. Yes.

16 MR. SHELSON: So can I display this just to the witness
17 and not publicly?

18 BY MR. SHELSON:

19 Q. All right. This is the person we're talking about where
20 you took issue that this person was admitted to RDC over your
21 objections; is that correct?

22 A. I believe so, yes.

23 Q. Okay. So what was that person arrested for?

24 A. I don't know.

25 Q. All right. If that person was arrested for domestic

1 violence, does -- do you know whether under Mississippi law
2 that person must be detained?

3 A. Can you rephrase your question?

4 Q. If this arrestee was arrested for domestic violence, do
5 you know whether under Mississippi law that person must be
6 detained?

7 A. Yes. I believe so, yes.

8 Q. And he was, in fact, detained?

9 A. When you say "detained," do you mean by the arresting
10 officer or --

11 Q. No. I mean detained -- I mean in this instance detained
12 at RDC.

13 A. Yes.

14 Q. Okay. And was he, in fact, detained at RDC?

15 A. Yes.

16 Q. Over your objection?

17 A. It wasn't my objection to accept him into custody. It
18 would have been my recommendation to send him out for medical
19 treatment prior to accepting him into custody.

20 Q. And this arrestee, though, he was sent out -- he was sent
21 to the hospital, wasn't he?

22 A. It appear- --

23 Q. Right here. "Was taken to UMMC and refused treatment."
24 Did I read that correctly?

25 A. The entirety of that sentence says, "Prior to coming to

1 RDC," so it would appear from this document that the arresting
2 officer had presumably taken him to the medical center.

3 Q. Right. So the arresting officer took this arrestee to
4 UMMC, and the arrestee refused treatment; correct?

5 A. Yes.

6 Q. And then he was brought to RDC and he was placed into
7 custody because he was charged with domestic violence;
8 correct?

9 A. Initially the report I got from the officers and medical
10 staff was that they were asking the arresting officer to take
11 that arrestee to the medical clinic for clearance.

12 Q. Okay.

13 A. And then he was later accepted into the facility.

14 Q. And do you know one way or another whether placing him in
15 custody for his domestic violence charges was consistent with
16 Mississippi law?

17 A. Yes, it was.

18 Q. Did you have any discussion while all this was going on
19 with Sheriff Crisler on what his rationale was for wanting
20 this arrestee placed in custody?

21 A. Yes. After the event, we did.

22 Q. And did he mention to you the domestic violence issue?

23 A. He did.

24 Q. Do you recall being asked by the Court about this e-mail,
25 Major Bryan, which is page 19 of Exhibit P-13?

1 A. Yes.

2 Q. All right. Do you recall being asked whether Sheriff
3 Jones had any discussions with you about the e-mail that's on
4 page 19 of Exhibit P-13?

5 A. Yes.

6 Q. All right. How do you know whether Sheriff Jones ever
7 saw this e-mail?

8 A. I don't.

9 Q. Did you have some sort of expectation that Sheriff Jones
10 would review the e-mails that had been sent to his
11 predecessor?

12 A. I don't know that I had any expectations one way or the
13 other for that.

14 Q. Let's talk about staffing. Would you agree that more
15 than 90 percent of what we're here talking about during this
16 hearing relates one way or another back to staffing issues?

17 A. I don't know if I can quantify the percentage of what
18 we've talked about. I know we've talked about staffing.

19 Q. Is there any issue more important to RDC than staffing?

20 A. Staffing is critically important, yes.

21 Q. Can you think of any other issue that's more important?

22 A. Physical plant is as important as well.

23 Q. But don't you agree you need staffing to make sure that,
24 once repairs are made, the inmates don't tear it back up
25 again?

1 A. Yes, that's important.

2 Q. That's staffing issue; right?

3 A. Yes.

4 Q. All right. And look at page -- this is page 21 of
5 Exhibit P-13. Everything on this page is a staffing issue,
6 isn't it?

7 A. Yes.

8 Q. And there's ripple effects. So, like, the heading
9 "Medical Security," so staffing impacts issues like med pass
10 and so forth, doesn't it?

11 A. I'm sorry. Can you rephrase your question?

12 Q. Staffing impacts other issues; for example, if there's
13 enough people to escort medical personnel to see somebody, to
14 see a detainee in a unit?

15 A. Yes.

16 Q. And hall escort, you need staffing to have hall escorts,
17 don't you?

18 A. Yes.

19 Q. Do you contend that Sheriff Vance told you that staffing
20 did not need to increase at Rankin -- excuse me, at RDC?

21 A. I don't recall having a conversation with Sheriff Vance
22 about that.

23 Q. Do you recall any sheriff telling you that they were of
24 the belief that staffing did not have to increase at RDC?

25 A. If I understand your question, you're asking me if any

1 sheriff told me that staffing did not have to increase?

2 Q. That's my question.

3 A. No, I do not recall that.

4 Q. Did anybody with the Board of Supervisors tell you that
5 or any words to that effect?

6 A. No.

7 Q. Did you ever meet with Sheriff Jones before he took
8 office regarding RDC?

9 A. So I'm unsure how to answer that. I believe I met with
10 Sheriff Jones after he was elected, but not before he was
11 elected, no.

12 Q. Okay. So did you meet with Sheriff Jones on
13 approximately November 24th, 2021, in the Board of
14 Supervisors' conference room?

15 A. I don't recall the date, but, yes, that was where we met.

16 Q. So if it was Oct- -- excuse me.

17 If it was November 24th, 2021, I will represent to you
18 that that was about a day after the show cause order was
19 entered. Okay? At that meeting on or about November 24th,
20 2001 *[sic]*, were you, Supervisor Calhoun, Sheriff Jones, and
21 Tony Gaylor present?

22 A. Yes.

23 Q. All right. And is it your testimony that the consent
24 decree was not discussed at that meeting?

25 A. I believe that was one of the things that was brought up,

1 yes.

2 Q. And it was brought up and it was discussed in some amount
3 of detail, wasn't it?

4 A. I don't recall exactly what was talked about in that
5 meeting. We covered a lot of areas.

6 Q. Do you recall if at that meeting Sheriff Jones told you
7 that you were his field training officer on the consent
8 decree?

9 A. I do.

10 Q. He told you that?

11 A. He did.

12 Q. Did you tell -- well, strike that.

13 Did you say at that meeting, "I'm not sure we're going
14 into receivership, but if we do, there's a strong possibility
15 I'll be the receiver," or words to that effect?

16 A. I did not.

17 Q. You deny that?

18 A. I do.

19 Q. As of December 1st, 2021, did you have a command staff in
20 place of your choosing?

21 A. Mostly, yes.

22 Q. Do you remember talking about this the other day on
23 cross-examination? Is this your declaration that was filed on
24 December 17th, 2021, ECF-106?

25 A. Yes.

1 Q. At paragraph 4 does it read, "As of December 1, 2021, I
2 now have in place a command staff of my choosing"?

3 A. Yes.

4 Q. Does paragraph 6 read in part, "The County recently
5 transitioned the training program to me from the sheriff, and
6 this has allowed me, in conjunction with the training officer
7 on my staff, to plan improvements to the training curriculum
8 for detention staff"?

9 A. Yes.

10 Q. Does paragraph 8 in part say "In November 2021 recruiter
11 Bernard Moore was reassigned to me to strengthen recruiting
12 efforts related to the RDC and the work center"?

13 A. Yes.

14 Q. Paragraph 9 read in part, "With respect to staff
15 retention, Hinds County Board of Supervisors approved a
16 5 percent pay raise for all staff at the RDC along with
17 premium pay"?

18 A. Yes.

19 Q. Did you view those things as a distinct lack of -- strike
20 that.

21 Did you view those things as a distinct lack of support
22 from the County?

23 A. No.

24 Q. Paragraph 11 of your declaration, does it read in part,
25 "To date, the County has devoted resources to renovating the

1 living units at the facility in an effort to set those units
2 up for direct supervision"?

3 A. Yes.

4 Q. Paragraph 12, in part does it say "We also have looked to
5 make certain that detention officers conduct security rounds
6 at required intervals. To that end, the County recently
7 approved a request for funding to purchase and install an
8 electronic rounds system"? Does it say that?

9 A. Yes.

10 Q. Does paragraph 14 say in part "The County also has
11 renegotiated its agreement with Quality Correctional Health
12 Care (QCHC), the contractor providing medical and mental
13 health care at RDC"? Does it say that?

14 A. Yes.

15 Q. Now, I think I may have asked you this -- I apologize --
16 from the first time you were here, but do you know the cost of
17 that contract to the County?

18 A. I don't.

19 Q. Okay. Paragraph 16: "The County also has under
20 construction a dedicated mental health living unit, Unit B1.
21 The unit is undergoing renovations which will allow it to
22 serve as the RDC's unit for detainees."

23 Did I read that correctly?

24 A. Yes.

25 Q. Paragraph 18: "With respect to efforts to address and

1 minimize the risk of suicides at RDC, we currently have two
2 padded rooms under construction, and once completed, these
3 rooms will be used to aid efforts to monitor and control
4 detainees who present suicidal threats."

5 Did I read that correctly?

6 A. Yes.

7 Q. And we talked last time about the County providing two
8 assigned maintenance employees to focus exclusively on
9 maintenance issues at RDC. Do you recall that?

10 A. Yes.

11 Q. And you were pleased with the performance of those two
12 maintenance employees; correct?

13 A. Yes.

14 Q. And is any of what I've just gone over with you in your
15 declaration indicative of what you referred to on page 1 of
16 P-13 as a distinct lack of support from the County?

17 A. No.

18 MR. SHELSON: May I have a moment to confer, Your
19 Honor?

20 THE COURT: You may.

21 BY MR. SHELSON:

22 Q. Major Bryan, I want to clear up one more thing. When the
23 Court was asking you questions, was it your testimony that you
24 had not discussed the consent decree with the sheriff or
25 anyone else with the County?

1 A. No. I believe what I said was we hadn't had meetings
2 specifically targeting the consent decree. I don't believe I
3 said we've never talked about it.

4 Q. Okay. So --

5 A. If I did, I misspoke.

6 Q. So you think that you answered with regard to
7 specifically targeting, but you do acknowledge that you had
8 discussions regarding the consent decree with Sheriff Jones
9 and other County officials?

10 A. Yes.

11 Q. Do you know approximately how many times?

12 A. No, I don't.

13 Q. On approximately November 18th, 2021, did Alan White, an
14 undersheriff of Hinds County, issue a memo authorizing Hinds
15 County Sheriff Office deputies to work overtime at the
16 detention center?

17 A. Yes.

18 Q. Was that indicative of a distinct lack of support?

19 A. Issuing a memo, while supportive, isn't as supportive as
20 concerted efforts to change staffing levels at the jail
21 pursuant to that memo.

22 Q. And things to assist, though, with that are things like
23 pay raises?

24 A. No. Specifically about that memo, if the memo -- The
25 memo was issued to authorize deputies to work overtime.

1 Q. Do you acknowledge that the County took efforts to
2 increase staffing?

3 A. Well, if I could finish my first comment.

4 Q. I'm sorry. I thought you were done.

5 A. No, sir. So the memo was issued about deputies working
6 overtime at the jail. That is supportive. However, if that
7 memo doesn't change anything because of a lack of emphasis put
8 on that by senior staff at the sheriff's office, then that's
9 not as supportive as it could be.

10 Q. Well, that was one thing the County did regarding
11 staffing. You acknowledge, though, there are other things --
12 we just went over some of them -- that the County did
13 regarding staffing?

14 A. I did, yes, sir.

15 Q. The most recent of which was a starting salary pay raise
16 to \$31,000?

17 A. Yes.

18 MR. SHELSON: No further questions, Your Honor.

19 THE COURT: All right. Thank you.

20 Is this witness finally excused, or does the Government
21 wish to reserve the right to call this witness as a rebuttal?

22 MS. COWALL: Your Honor, we'd reserve the right to call
23 this witness as a rebuttal witness, if necessary.

24 THE COURT: All right. In that regard, Major Bryan,
25 you shall remain sequestered; that is, do not discuss your

1 testimony with anyone or allow anyone to discuss it with you.
2 I would imagine you are excused for the day for sure, and the
3 parties will contact you if you're needed to testify again.

4 THE WITNESS: Yes, sir. Thank you.

5 THE COURT: But thank you for accommodating me.

6 We are now at our lunch hour. I think we should go
7 ahead and take it now. I know the next witness is not going
8 to be less than an hour, so let's be prepared to start back up
9 at 1:10 p.m. and we'll just go from there. We'll go from
10 there. 1:10 p.m. Thank you.

11 We're in recess.

12 (A lunch recess was taken.)

13 THE COURT: You may be seated.

14 I assume there's nothing that we need to take care of.
15 Is the United States ready to call its next witness?

16 MS. VERA: Yes, Your Honor. The United States calls
17 Jim Moeser.

18 THE COURT: Okay.

19 **JIM MOESER,**

20 **having been first duly sworn, was examined and**
21 **testified as follows...**

22 **DIRECT EXAMINATION**

23 **BY MS. VERA:**

24 Q. Good afternoon, Mr. Moeser. How are you today?

25 A. Good.

1 Q. Could you please tell us your current occupation?

2 A. I'm currently retired with the exception of a periodic
3 consulting work and this monitor project.

4 Q. And where do you live?

5 A. In Wisconsin.

6 Q. Do you have expertise in juvenile custody issues?

7 A. Yes.

8 Q. Juvenile programming needs?

9 A. Yes.

10 Q. And in that area of juvenile justice, do you have any
11 specialty areas?

12 A. I think programming is one of them; discipline, sort of
13 discipline/behavior management would be another; some work and
14 expertise in facility design and construction, not as an
15 architect but in terms of operations and program general
16 supervision and management experience and expertise.

17 Q. Have you worked as an administrator with responsibility
18 for youth justice programming?

19 A. Yes.

20 Q. Have you worked as an administrator with responsibility
21 for facilities holding youth?

22 A. Yes.

23 Q. And responsibility for training relevant to juvenile
24 justice?

25 A. Yes.

1 Q. Do you have other consulting experience in juvenile
2 justice and administration?

3 A. I've done other work in sort of evaluating facilities
4 operations, also have done a fair amount of consulting around
5 issues of population management and control and also in more
6 community-based probation operations and also victim-offender
7 conferencing and other gang prevention. There are kind of a
8 variety of other work that I've done in those areas.

9 Q. Do you have experience implementing reform in a custodial
10 setting, a youth custodial setting?

11 A. Yes.

12 Q. And can you briefly summarize your educational
13 background?

14 A. So I have a bachelor's degree in social work from the
15 University of Wisconsin-Oshkosh; I have a master's degree, a
16 60-credit master's degree, from Arizona State University in --
17 counseling degree with a focus on community agency counseling;
18 and I did complete additional work towards a PhD in counseling
19 psychology as well as -- as well as quite a range of hundreds
20 of hours of other workshops and trainings.

21 Q. Have you served on committees or working groups in the
22 juvenile justice area?

23 A. Yes. Quite a few. I've been involved -- been on
24 committees related to the development of curriculum for youth
25 supervision staff in juvenile facilities. Detention officers

1 is the term Wisconsin uses for that. So I worked for the
2 group developing the curriculum components for that, for the
3 training for that.

4 I was on a committee that also wrote the -- what became
5 the regulations for operating detention facilities in the
6 state of Wisconsin.

7 I've worked on numerous other committees. I served on
8 the federal Advisory Committee for Juvenile Justice and was
9 the chair and vice chair of that group.

10 I served a couple different terms on the Governor's
11 Juvenile Justice Commission.

12 I've been involved working with other committees on
13 developing model probation guidelines.

14 And there's many more. I'm not thinking of all of them
15 off the top of my head. Those are probably the relevant ones.

16 Q. Okay. And have you authored publications regarding youth
17 in the criminal justice system?

18 A. Yes. Kind of both in terms of -- some in terms of
19 specifically related to confinement facilities.

20 I was a coeditor of a project focusing on confinement --
21 or reentry strategies for confinement facilities, and I was
22 coeditor and wrote a couple chapters of that publication.

23 Wrote several chapters in what is called the Desktop
24 Guide to Best Practice -- or Good Practice for Confinement
25 Facilities -- for Juvenile Confinement Facilities. That is

1 now part of the National Institute of Corrections' library.
2 That was done through the National Partnership for Juvenile
3 Services.

4 I've written -- I published, oh, four or five articles on
5 other aspects of the juvenile system related to balance and
6 restorative justice, reentry issues, and those are the ones
7 that come to mind.

8 MS. VERA: Could we pull up the exhibit marked PX-7,
9 please?

10 BY MS. VERA:

11 Q. Mr. Moeser, do you recognize this document?

12 A. Yes.

13 Q. And what is it?

14 A. That looks like the resume or CV that I sent to
15 Department of Justice late last year.

16 Q. And is this an accurate summary of your work experience
17 and educational background?

18 A. Yes. You know, for the most part. I mean, there may be
19 a few dates here and there that are -- as I tried to
20 recollect, may be quite -- not quite correct, but otherwise
21 the general -- the elements are correct and the time frames
22 are basically correct.

23 MS. VERA: Your Honor, the United States moves to admit
24 P-7 into evidence.

25 THE COURT: Any objection?

1 MR. MORISANI: No objection.

2 THE COURT: PX-7 will be received into evidence.

3 (Plaintiff's Exhibit 7 entered.)

4 MS. VERA: Thank you. And, Your Honor, the United
5 States tenders Jim Moeser as an expert in juvenile justice and
6 administration.

7 THE COURT: Any objection?

8 MR. MORISANI: Your Honor, just subject to the -- I
9 think it was Docket Number 134, but I think Your Honor
10 addressed it yesterday, so...

11 THE COURT: Okay. Subject to the objection -- the
12 continuing objection?

13 MR. MORISANI: Yes, sir.

14 THE COURT: Okay. Mr. Moeser will be allowed to
15 testify in the designated areas.

16 MS. VERA: Thank you, Your Honor.

17 BY MS. VERA:

18 Q. Mr. Moeser, I'd like to talk briefly about your role in
19 this case. Could you briefly describe your area of
20 responsibility on the monitoring team?

21 A. So I've had the primary responsible [sic] for assessing
22 the conditions of the agreement as it relates to youthful --
23 what the agreement calls youthful prisoners. These are youth
24 under the age of 18 who are charged as adults.

25 Q. And is there a specific terminology that the County uses

1 for those youth who are charged as adults?

2 A. They use the term "JCAs," juveniles charged as adults.

3 Q. And in your capacity as a member of the monitoring team,
4 when did you first tour the jail in Hinds County?

5 A. The baseline visit in October of 2016 was the baseline
6 visit, and the monitoring activities started in spring of --
7 or early after the new year of 2017.

8 Q. And when did you first tour Henley-Young Juvenile Justice
9 Center?

10 A. At that first baseline visit in the fall of 2016.

11 Q. Let's talk about the activities that you've engaged in
12 since then to monitor compliance. How many visits total have
13 you made to Hinds County to visit the jail or Henley-Young?

14 A. In all total, counting the baseline visit, there have
15 been 17 visits, with ten of those being on-site, the last
16 seven being virtual.

17 Q. And did you visit Henley-Young in all of the on-site
18 visits?

19 A. Yes.

20 Q. And what was the most recent on-site visit?

21 A. I think February of 2020.

22 Q. And what was the most recent virtual visit?

23 A. I did virtual visit the week of January 31st, a couple
24 weeks ago.

25 Q. 2022?

1 A. 2022. And I should add that for a period in 2017 and
2 '18, I visited both Henley-Young and -- while there was still
3 a fair number of youth at RDC, I was in both facilities for
4 those visits.

5 Q. Okay. And how many monitoring reports have you assisted
6 with?

7 A. Fifteen. I have submitted at least my report as it
8 relates to the most recent one, which I think would be the
9 16th.

10 Q. To do monitoring visits and assessments, whether on-site
11 or remote, do you review documents?

12 A. Yes.

13 Q. And in the context of remote visits, how are you able to
14 review documents?

15 A. So before the remote visits, we would request through
16 Ms. Simpson a list of documents that we'd like to get
17 electronically. That was one source, and the staff at
18 Henley-Young would put together a package of materials. Those
19 would typically go to the compliance coordinator for Hinds
20 County, and he would download them on to a drive that we could
21 access.

22 Also during the term of the -- kind of over time, he also
23 adds things as they occur, so things like incident reports are
24 considered immediate notifications. Some things like that are
25 also downloaded by him, and we're able to access those as

1 well.

2 Q. And have you been able to conduct interviews for these
3 remote visits?

4 A. Yes. Combination. Most recently all by Zoom, which was
5 helpful for the purpose. Initially some of those were more so
6 by phone and sort of increasingly used Zoom as a tool to do
7 interviews.

8 Q. About how many interviews have you conducted in the past
9 several remote visits?

10 A. I would say its range is from eight to ten.

11 Q. And do you do that over the course of a day, a few days,
12 a week?

13 A. It's usually three days, so it's maybe into a fourth day
14 depending on scheduling. There's been times when I follow it
15 up even on a fifth day if there was somebody not available
16 during that first part of the week.

17 Q. For the monitoring reports going back to the beginning
18 all the way through the present, to make your assessment, do
19 you talk with staff?

20 A. Yes.

21 Q. Do you review staffing figures, numbers, shift reports?

22 A. I have more recent- -- well, I guess there's a history;
23 right? So initially during the actual site visits, I would
24 typically ask about staff vacancies, how many there were, kind
25 of what were the trends in that.

1 More recently in the last few years, last two or three
2 years, been getting periodic organizational charts that show
3 vacancies, and I can actually look at those numbers. I've
4 periodically asked for a more current organizational chart and
5 then discuss -- either at the time of the site visit or on
6 occasion in between if we had a conversation, I might ask
7 about vacancies.

8 Q. Do you review programming schedules?

9 A. Yes. I review -- I typically review a sample of
10 programming schedules. Well, there's two things. One is
11 there's a daily schedule for activities that are supposed to
12 occur on the unit. There's a -- that's available. When
13 on-site, you can look at a unit log to compare, you know, what
14 was scheduled versus what was actually conducted.

15 I also get a -- request a sample of program activities
16 that are conducted by the youth support specialists or the
17 clinicians in terms of the content of the groups -- the
18 content of the session and sort of the attendance.

19 I do not get reports on, for example, when they go out
20 for recreation activities, out to the backyard. I don't get
21 reports for those kinds of things, but I do for the actual
22 programs that are scheduled and run by the youth support
23 specialists.

24 Q. You mentioned youth support specialists a couple times.
25 Could you just explain what that is?

1 A. Yes. The youth support specialists were added to the
2 contingent of staff at Henley-Young prior to my arrival as
3 part, I think, really of the agreement with Southern Poverty
4 Law Center. They are, I think -- originally had been called
5 case managers. They have sort of a day-to-day, sort of
6 nuts-and-bolts interaction with youth around how the day is
7 going.

8 For example, the youth support specialists help maintain
9 family contact. They help with scheduling of treatment team
10 meetings, and then they also have -- run different -- a
11 variety of different programmatic groups with youth over the
12 course of a week. They respond usually following an incident
13 to check on the youth if there's been some incident of
14 significance.

15 So they're kind of a day-to-day -- sort of a day-to-day
16 counseling focus, not a therapeutic focus in the long run, but
17 for day-to-day counseling approach.

18 Q. Okay. Going back to what you do to make your
19 assessments, do you review school attendance records?

20 A. I have when I've gotten them. I was able to do that
21 easier on-site. The last virtual visit, not this one in
22 January but prior to that, I'd gotten some attendance records
23 that were, frankly, hard to decipher. This time I did not --
24 I asked for but did not get attendance records.

25 Q. Do you review incident reports?

1 A. Yes. Again, up until October of last year, I would ask
2 for specific types of incident reports, suicide, self-harm
3 incidents, incidents in which maybe a youth was injured, and
4 then I would also ask for a sample of incident reports rather
5 than every incident report.

6 Starting in October, I've been getting a -- usually on
7 Mondays, a document that contains a copy of the incident
8 reports from the prior week so I can review those. I also
9 get -- also many of those are sent to Synarus Green as the
10 compliance coordinator, and after -- he puts them in the
11 shared drive that I can access, and he will usually send an
12 e-mail saying he's added to the drive.

13 Q. Do you review documentation of observation of youth who
14 are in their rooms for periods of time and not allowed to
15 leave their rooms?

16 A. What I asked for and what I got, kind of slightly
17 different. I asked for observation logs of any youth that
18 were confined for disciplinary reasons. I also asked for --
19 and I got those. I asked for observation logs of any youth
20 that were confined for more than an hour for any other reason.
21 I think that's still a work in progress to try and get that
22 information documented. For the youth that were in rooms for
23 disciplinary reasons, formal disciplinary reasons, I did get
24 observation logs.

25 Q. Have you reviewed existing policies for Henley-Young?

1 A. Yes, although I have -- many of them are 2015 or 2017. I
2 read them earlier in my time with them. They haven't changed.
3 I wouldn't say I was familiar or overly fresh on every detail
4 of the policies.

5 Q. When you have been on-site in the past, have you observed
6 operations?

7 A. Yes.

8 Q. Have you walked through the facility?

9 A. Yes.

10 Q. Have you interviewed residents?

11 MR. MORISANI: Objection.

12 A. Yes.

13 MR. MORISANI: Leading.

14 THE COURT: Objection overruled.

15 BY MS. VERA:

16 Q. Have you interviewed residents?

17 A. Yes. In two different ways. I've on some occasions
18 asked to meet with youth individually. On some occasions I've
19 gone on to the unit and talked with maybe a small group of
20 youth.

21 Q. And have you reviewed residents' records?

22 MR. MORISANI: Objection. Leading.

23 THE COURT: Objection sustained.

24 Don't lead your witness, please.

25 BY MS. VERA:

1 Q. What else did you review when you would go on-site,
2 Mr. Moeser?

3 A. I usually would start the on-site visit by -- kind of the
4 typical process was to first meet with the executive director,
5 get a sense of maybe any changes that had occurred, any
6 concerns that had developed. This is when there was an
7 executive director. If not, I would meet with the operations
8 manager to get a sense of any changes, you know, concerns they
9 may have.

10 I would then ask for and got what was called -- it was
11 called the residence master file for every youth that was
12 there, all the JCA youth that were there, and I would go
13 through those records. Those master files contain information
14 from their admission, their initial screening at intake, a
15 note about their response on the mental health screening tool,
16 incident reports, observation logs if they were confined for a
17 period of time. And I think prior -- you know, any prior
18 admissions they had had at the facility I believe were also in
19 those files.

20 And I would use those files to kind of then create a --
21 probably of series of sort of questions in particular around
22 certain things that might have occurred.

23 I would then have meetings established with school
24 principal, the operations manager and the quality assurance
25 manager, selected staff. I would tour the facility, sit on

1 the -- you know, on the unit, spend some time on the unit,
2 spend some time in the school classroom, things like that.

3 Q. You said that -- excuse me.

4 You said that during these on-site visits, you met with
5 the executive director, the school principal, the operations
6 manager, the quality assurance manager, and other staff.

7 A. Yes.

8 Q. Have you met with -- have you met with those individuals
9 remotely since the onset of the COVID pandemic?

10 A. Yes. By and large, it's the same -- it's the same group:
11 the youth support specialists, when there's been a -- the
12 clinical staff -- clinicians for therapy, if there's been a
13 treatment director, kind of the whole leadership team,
14 training director. Those are also the same folks I would talk
15 with virtually.

16 Q. Have you reviewed the settlement agreement and stipulated
17 order?

18 MR. MORISANI: Objection. Leading.

19 A. Yes.

20 THE COURT: Objection overruled.

21 BY MS. VERA:

22 Q. And do you make assessments in the monitoring reports?

23 A. Yes.

24 Q. What are those assessments?

25 A. I try to make an assessment as to -- as to whether they

1 are really meeting the -- you know, the conditions that are
2 listed, you know, to what extent they're meeting them, what
3 are they doing to try and meet them if they haven't already,
4 you know, do they have plans for improvement to meet them, and
5 try and assess, you know, kind of to what extent they meet
6 those conditions.

7 Q. And the conditions you're referring to are based on what?

8 A. Well, the conditions that are a number of items in the
9 original consent decree. I don't remember how many. Ten or
10 12, somewhere in that range. There are several additional
11 items or more specific items in the settlement -- in the
12 settlement agreement from January of 2020, so those kind of
13 form the outline of the -- of my focus. I mean, I do see
14 other things and notice other things, but my, really, focus is
15 on what extent they're meeting those particular items.

16 Q. When you talk about noticing other things, not
17 specifically, but what do you mean? What other things would
18 you notice?

19 A. Well, I notice kind of the general condition of the
20 facility. Is it clean? Are there -- I ask about, for
21 instance, are there physical plant issues that they're
22 struggling with? Do they have safety concerns or issues that
23 are of concern? Are the youth active -- actively engaged in
24 something or are they kind of milling around. Look at the
25 individual -- look at some -- I don't always look at all --

1 certainly don't look at all the rooms but look at a room,
2 cell, you know, what's the condition of the cell? Is the
3 water pressure working? That's something that I've noticed in
4 the past. Are there, you know, kind of the general
5 environmental factors that contribute to the facility and
6 contribute to the safety of the youth?

7 Q. And in your monitoring -- in the monitoring reports and
8 the assessments you make in those reports, whether the more
9 recent ones where you've done a remote visit or in the past
10 when you've visited on-site, in all of the reports, are you
11 confident that you've had enough information to make those
12 assessments?

13 A. Yes. I mean, there are some limitations to not being
14 able to be on-site. I mean, there's always -- I always would
15 prefer to talk to somebody directly. I had hoped to get down
16 there this last visit as well. Unfortunately, I was diagnosed
17 with COVID a few days before, you know, and I haven't seen the
18 physical plant for a while, including the -- I have not
19 actually seen the portable classrooms that they did add to see
20 how they're located and how manageable that might be for them
21 to be used. So there are some limitations, but in terms of
22 the actual agreement or -- excuse me, the items in the consent
23 decree or the settlement agreement, I'm confident that I have
24 enough information.

25 Q. And do you have contact with Henley-Young employees in

1 between the official monitoring tours?

2 A. Some. Sometimes it's a follow-up from something they've
3 sent me, maybe an incident, an update about COVID issues, for
4 example. As I get incident reports, if I see something that's
5 particularly alarming, I may follow up and contact someone to
6 get more information. I wouldn't say -- I periodically send
7 materials to the director. I've sent materials to
8 Ms. Warfield, who's the treatment coordinator. I send e-mails
9 periodically about training programs I see online through the
10 National Partnership for Juvenile Services. I don't have a
11 regular routine all (AUDIO GAP).

12 Q. Does your role in this case also include providing
13 technical assistance?

14 A. Yes.

15 Q. To what extent?

16 A. Well, I would say I provide limited technical assistance,
17 and generally it's, again, around a specific issue. I
18 provided feedback on, for example, the classification
19 checklist that they supposed to -- are supposed to use. I
20 provided materials to Ms. Warfield about other sort of program
21 models. I've linked the director, or Mr. Burnside as the
22 operations manager, to various training programs or resources
23 for information.

24 I -- there's kind of a balance that I in my mind do
25 probably less than some of the other members of our team.

1 There are also -- and for a couple of reasons. One is the
2 agreement itself has a provision that they obtain services
3 from someone to help them develop a behavioral management
4 program, and they really need to do that. I don't want to --
5 typically don't want to start giving advice about a particular
6 program that I'm not then able to spend the time to follow
7 through and train staff, much more -- much more time than I
8 would be able to commit.

9 They also have been -- they've been getting some
10 assistance from Anne Nelsen, who is the monitor from the SPLC
11 agreement. She has a weekly call with them, and they have
12 just recently, with the help of SPLC, retained the services of
13 a consultant who is well respected in the field to help with
14 some of the initial assessment, case planning, and hopefully
15 ultimately behavior management issues.

16 I have been trying to stay in touch with Ms. Nelsen, for
17 example. I'm concerned about making sure we're not giving
18 conflicting directions or advice, so I take a little bit more
19 of a back seat on that.

20 Q. And so just to clarify, when you're talking about
21 Ms. Nelsen and the SPLC agreement, what agreement are you
22 referring to?

23 A. I believe the Southern Poverty Law Center, you know,
24 filed a suit of some kind and have an agreement with
25 Henley-Young in particular that goes back a number of years

1 prior to our involvement and relates a lot to sort of the
2 numbers of youth, some of the programming issues, and some of
3 the mental health treatment components.

4 Q. And -- excuse me.

5 And Ms. Nelsen is who?

6 A. Ms. Nelsen is a, you know, monitor. She's -- lives in --
7 I want to say Utah or Idaho. I forgot. Utah, I believe.
8 Yeah, Utah.

9 Q. That's okay. In the context of the other agreement, what
10 is her role?

11 A. Yeah. She is the monitor for that agreement and also
12 does provide some weekly contact with them and gives them some
13 advice and program ideas.

14 Q. And you said you're in communication with her?

15 A. Yes.

16 Q. About how often do you speak with Ms. Nelsen to
17 coordinate as you described?

18 A. Probably speak to her twice a month, probably another
19 couple e-mails a month back and forth. Some of that depends
20 on timing. For example, she was just there on-site recently,
21 so she was able to provide me with some information. I'll do
22 the same, you know, after -- at some point here soon after to
23 say, okay, here's my observations from the last visit, the
24 last virtual visit. If there's a particular issue of concern,
25 whether it's an incident or some changes they're making to

1 some significant part of the program, we might communicate
2 about that.

3 Q. Let's move on and talk about Henley-Young and the
4 facility and the people who work there. Who currently resides
5 at Henley-Young?

6 A. There are two types of youth. There are -- the largest
7 percent -- the largest number of youth are juveniles charged
8 as adults that are housed there pursuant to being charged as
9 an adult through the adult court system, and they're housed
10 there.

11 And then there are a number of -- smaller number,
12 typically much smaller number, of youth held through the youth
13 court system, traditionally for short -- typically for much
14 shorter periods of time. For whatever reason, either --
15 typically youth that are held at secure detention in
16 situations like that are youth who are either deemed to be a
17 risk of harm to the community or a risk of -- sort of high
18 risk of running away so that they can't be processed through
19 the system. Those decisions are made by the youth court
20 judge.

21 Q. So with regard to the JCAs, how long do they typically
22 stay at Henley-Young?

23 A. Well, there are, you know, kind of a handful over the
24 course of time that come and go fairly quickly, either get
25 bailed or bond out somehow, but otherwise they stay for pretty

1 extended periods of time. It's difficult to say an average,
2 but I would say nine to -- nine months to two years would
3 be -- capture most of them.

4 Q. Do any youth stay for longer than two years?

5 A. There have been. There's a youth there now that's been
6 about 880 days, two years and four or five months. I think --
7 I'm trying to remember whether there's been other kids that
8 have been there two years or more. With the initial group of
9 kids when I first came, there had been some youth who'd been
10 RDC for more than two years.

11 Q. What's the approximate population of Henley-Young total?

12 A. I think the average is probably around 27. The JCA
13 numbers -- and that's perked up recently, so they've been much
14 closer to 30 to 32 youth with as many as 28 JCA youth and half
15 a dozen youth court youth.

16 Q. And is there a breakdown as to boys and girls in the
17 facility?

18 A. Sure. The vast, vast majority are boys, whether
19 either -- whether it's JCA youth or youth court. Probably, I
20 would say on average, there's only one -- if you took an
21 average, there's maybe one girl, JCA girl, maybe only one
22 youth court girl. There will be times when there will be two
23 or three and days where there will be zero.

24 Q. And where do the -- where do the youths, the JCAs and the
25 youth court youth, where do they -- where do they sleep; where

1 do they stay? What's the configuration for housing?

2 A. There are four living units, or pods, within
3 Henley-Young, all equal size. I think all have the capacity
4 for 21 -- directly 21 youth is the largest capacity. The JCA
5 boys are traditionally housed in two of those units. There
6 are then -- there's then a unit where there's a smaller number
7 of youth court boys, and then there's a girls' -- and then
8 there's a fourth unit that houses girls that may have a mix of
9 JCA and youth court girls.

10 And given the number of JCAs, there have recently been a
11 couple JCA youth boys on the -- they call -- formerly called
12 the youth court boys' unit. So they try and balance the youth
13 out a little bit so as not to overwhelm any of the units and
14 also try and make sure the youth are safe in their units.

15 Q. Other than -- well, can you describe the facility layout
16 briefly to some extent?

17 A. Well, you know, the front entry area and part of the --
18 part of Henley-Young itself is really a youth court facility.
19 So there's a section of the facility that is a youth court,
20 has some -- I guess I would say they're court officers or --
21 excuse me, probation officers perhaps. I'm not sure of their
22 official title.

23 You come into the facility. It's a fairly good-size
24 lobby, waiting area, of parents that are coming to court with
25 their youth for youth court to wait there. And then there's a

1 hallway into more of an administrative area where the
2 operations manager, training folks, quality assurance managers
3 are. There's then another entry into the secure part of the
4 facility. There's a control -- kind of a central control area
5 there initially that has the ability to observe and control
6 doors.

7 Once you enter the secure portion, you can take a couple
8 different directions, but basically there's a multipurpose
9 room that gets used for kind of all kinds of things. It's not
10 very large. There's a school -- the classroom area comes in
11 there fairly quickly. There are four -- I think four
12 classrooms in there, fairly cramped setup.

13 And then you come to kind of what I'd just simply say a
14 T. You come to a T, a fork in the road, whatever you want to
15 call it. One direction you go leads off to two of the pods.
16 The other direction leads off to two of the other -- the other
17 two pods. It goes then -- you get to a point where you go to
18 the right for one pod, to the left for another pod. And then
19 there's a recreation area in the back that's fenced in.

20 The individual pods them selves are multi- -- two-story.
21 I think there's 20 rooms altogether. Open steel tables bolted
22 to the floor, poorly furnished, acoustically terrible, and
23 that's where they basically live and do a lot of their
24 activities.

25 Q. You said there are steel tables in the pods and that

1 they're poorly furnished. Can you just explain what you mean
2 by that?

3 A. Well, you know, youth -- I mean, there are a whole range
4 of things, but youth need a place to sit down and relax a
5 little bit, whether it's watching TV or reading a book or
6 playing cards with a friend or -- friend or one of the other
7 residents, however they're called. And there's no extra
8 chairs, there's no extra tables, so there's no extra furniture
9 for them to utilize in any way. Anything they do has to be
10 done at those steel tables, which means all the youth are
11 essentially together sort of at one table -- or two tables,
12 really. I think there's three tables, but it's spread across
13 two tables usually. And that's about it. I mean, there's
14 no -- yeah, there's no ability to do anything else other than
15 if you're going to sit down, you sit at those steel tables,
16 picnic tables.

17 Q. You testified earlier about therapeutic activities or
18 groups, I believe?

19 A. Yes.

20 Q. Where do they do those?

21 A. Well, they do them where they can. They are sometimes
22 done in the multipurpose room, which is off the unit, if they
23 can -- if they have staff available to bring youth to the
24 multipurpose room. Otherwise, they basically do them on the
25 unit itself. They did add a couple portable classrooms kind

1 of in the back of the facility that were intended to be used
2 for small group work, but they don't have the staff available
3 to always escort and supervise youth out in that area. So
4 most of the groups are run in the multipurpose room, I think.

5 There's one small office for the psychologist -- or
6 there's one small office there that's used for therapy or some
7 of the staff, but there's very other little space for any kind
8 of therapeutic activities or group activities.

9 Q. What about bathroom and shower facilities?

10 A. Well, each of the units have a shower and, you know,
11 bathroom area that youth can access, and there are, you know,
12 times through the day when they -- when they have time where
13 they can use a shower if they need to, if they do. Assuming
14 there's water pressure.

15 Q. Pardon?

16 A. Assuming there's water pressure.

17 Q. Is that an issue?

18 A. It has been. You know, infrastructure problems in that
19 area seem to pop up either through cold weather or other
20 reasons. I mean, it's not -- several times a year, if not
21 more, when there's not sufficient water pressure at
22 Henley-Young for the shower or flush toilets. So they have to
23 escort the youth and try and get the youth to Raymond, RDC,
24 for showers. They use bottled water to try and accommodate
25 that for as long as it takes.

1 Q. And you said that has happened several times a year?

2 A. Yes.

3 Q. Do you know when the most recent time might have been?

4 A. You know, I don't. I'm sure it was -- I'm sure it was
5 within the last quarter of 20- -- excuse me, last quarter of
6 last year, but I don't have a date.

7 Q. Do you know of any other infrastructure issues?

8 A. The roof leaks. I think that is an issue. I think it's
9 sort of -- you know, sort of increasingly a problem, I think,
10 areas that are either stained or affected by that. One of the
11 staff did report that the roof leaks often end up shorting out
12 the Wi-Fi for youths for school, for teaching, but I think
13 that's -- they had repaired -- did a good job repairing the
14 control units in the control area that operate the doors.
15 That's been replaced and repaired, I believe.

16 Q. Do you know how long --

17 A. The roof, I think -- the roof, I think, is budgeted for.
18 I'm not sure it's been bid or contracted for yet.

19 Q. Do you know how long the roof has had these leaking
20 problems?

21 A. I would say I first heard about it about a year ago,
22 probably.

23 Q. Let's talk about the leadership of Henley-Young. Who's
24 in charge of the facility?

25 A. There is a director. Currently the interim director is

1 Mr. Crisler. Other members of what I would consider sort of a
2 leadership team would be a quality assurance manager. That's
3 Mr. Dorsey. The operations manager is Mr. Burnside. There is
4 now a treatment coordinator, Ms. Warfield. There's a training
5 director, sort of learning and development director. There's
6 a program coordinator --

7 Q. Let's just talk about the direct- -- oh, go ahead.

8 A. Okay. Yep.

9 Q. So you said that there -- sorry, Mr. Moeser. Go ahead,
10 please.

11 A. I was just going to say there's also, you know, mental
12 health clinicians that I wouldn't necessarily consider -- I
13 mean, I would consider them obviously critical members, not
14 necessarily from a management point of view.

15 Q. So for the executive director position, you said that
16 Mr. Crisler is the interim director. How long has he held
17 that position?

18 A. I believe since January 5th.

19 Q. And who was the director before that?

20 A. Fernandez Frazier.

21 Q. And for how long was Mr. Frazier the director?

22 A. He was there, I think, from April of '21 until
23 January 3rd of '22.

24 Q. And does the new interim director have experience with
25 youth detention?

1 A. Not to my knowledge, no.

2 Q. Does he have experience with youth programming?

3 A. Not to my knowledge.

4 Q. What was Mr. Crisler's position prior to becoming the
5 interim director of Henley-Young?

6 A. He was the interim sheriff appointed to follow after the
7 passing of Sheriff Vance.

8 Q. And did he run for sheriff in the recent election toward
9 the end of last year?

10 A. He did. He did.

11 Q. Since 2016 when you started in your role on the
12 monitoring team, how many different directors have there been?

13 A. There have been four different people, five different --
14 see if I can -- see if I can explain this as good as I can.
15 There have been five different person- -- excuse me, four
16 different persons who have been director and essentially five
17 occasions.

18 Mr. Frazier served as the director for a period prior to
19 this most recent time, up until, I think, January of 2020.
20 He'd been there about six months, I believe.

21 Mr. McDaniels, who now is Judge McDaniels, when I first
22 came. Then Mr. Frazier. He was discharged, I think, in
23 January of 2020. I believe there was a gap.

24 Mr. Harrington came in for a while after a gap, and there
25 was another gap.

1 Then Mr. Frazier came back.

2 Then he left, and now Mr. Crisler.

3 And many of those interim times, the facility has been
4 managed really by the operations manager and the quality
5 assurance manager kind of as a team. There was a point where
6 I think Judge McDaniels was designated as sort of an interim
7 executive director even when he was judge, but I'm not sure
8 how that -- whether he actually functioned that way or not.

9 Probably of the roughly five years since we've started,
10 there's been, I would say, 12 to 14 months where there has not
11 been a formal director on staff.

12 Q. How would you characterize the leadership situation at
13 Henley-Young over the past several years?

14 A. It's really a -- sort of a roller coaster, sort of two
15 steps forward, one step back or one step forward, two steps
16 back. I'm not sure. Someone comes on board, may or may not
17 be a good fit, but really rarely has been somebody who's had
18 experience in youth confinement programming. Well, there
19 really hasn't been anybody with that experience.

20 They stay for a while and for one reason or another
21 leave, and I think the facility has been sort of, you know,
22 patched together by some of -- the operations manager and the
23 quality assurance manager who have been there awhile to try to
24 keep things going forward.

25 Q. You testified that Mr. Frazier had last served as

1 director as of January 3rd, 2022?

2 A. I believe that's correct, yes.

3 Q. And what were the circumstances of him ending that role?

4 A. He resigned. He became frustrated with questions, kind
5 of a range of things that he detailed eventually in a
6 resignation letter. Frustrated with the support from sort of
7 above in terms of the County operation and difficulty in
8 getting equipment and difficulty getting staff salaries the
9 way they should be.

10 MS. VERA: Can we pull up the exhibit that's been
11 marked PX-12, please.

12 BY MS. VERA:

13 Q. Do you recognize this document, Mr. Moeser?

14 A. I do.

15 Q. And can you identify it, please?

16 A. This is a letter that Mr. Frazier delivered to the County
17 administrator on January 3rd.

18 MS. VERA: The United States moves to admit PX-12 into
19 evidence.

20 THE COURT: Any objection from the defendant?

21 MR. MORISANI: No objection.

22 THE COURT: PX-12 will be received into evidence.

23 (Plaintiff's Exhibit 12 entered.)

24 BY MS. VERA:

25 Q. All right. And if we could look at the first two

1 paragraphs, please, of this letter.

2 A. Okay.

3 Q. Mr. Moeser, do you see in the second sentence there that
4 Mr. Frazier writes that he's writing this letter "after
5 examining the many obstacles faced since accepting the
6 position"?

7 A. Yes.

8 Q. And do you see in the next paragraph the second and third
9 lines where he says he has not -- "I have not had the
10 necessary support as an administrator"?

11 A. Yes.

12 Q. Do you know what that means?

13 A. Well, I think -- I think at least the conversations I had
14 with him directly were around support from sort of the --
15 whether it was the board or the administrator, I'm not sure,
16 but support, for example, in getting supplies or ordering
17 things or kind of getting -- you know, if there were things he
18 needed, it seemed like there were obstacles to getting them.

19 In particular, he was -- later the letter talks about the
20 difficulty in dealing -- trying to get the staff salary up to
21 a more reasonable level in particular, and he mentions, again,
22 in the letter two things, that he was either excluded from
23 some meetings and wasn't -- did not seem to -- he did not feel
24 he had the authority to do what he needed to do.

25 My conversations with him were mostly about challenges he

1 seemed to face sort of dealing with the County administration
2 and the Board in terms of getting things done that he thought
3 needed to be.

4 Q. You said that he had issues with supplies and ordering
5 things. Could you please elaborate?

6 A. You know, I don't -- I don't recall discussing any real
7 specific things with him in that regard. I know at the time
8 of the -- whether it's, for example, the roof issue, it taking
9 a long time to get that bid and get that work done, and it's
10 still not done. There was fairly prompt response to getting
11 the control panel upgraded and changed. That was a positive,
12 but I didn't talk really specifics with him very much about
13 what he was trying to do and what his -- what the roadblocks
14 were.

15 MS. VERA: Could we turn to page 2, please.

16 BY MS. VERA:

17 Q. Did Mr. Frazier refer in his letter to the budget for
18 Henley-Young?

19 A. Yes. Yes.

20 Q. And did Mr. Frazier make a budget request for the current
21 fiscal year?

22 A. Apparently he did, yes. I was not aware -- I was not
23 aware of that at the time, but in his letter it's clear.

24 Q. And so where it says "The current" -- "The current fiscal
25 budget is funded at the rate of 3. -- \$3,288,843.84," he says,

1 "The facility was requested to be funded at approximately
2 4.1 million." He refers to this --

3 A. Yes.

4 Q. -- as "a drastic difference in funding."

5 Mr. Moeser, was the approved budget sufficient to operate
6 Henley-Young?

7 A. You know, I did not go over with him details about that
8 budget. I can -- certainly as it relates to staff salaries,
9 those have been insufficient.

10 Q. Does Henley-Young --

11 A. Other kinds of --

12 Q. Go ahead.

13 A. I was going to say other kind of changes that I've
14 proposed that I think he's supported, you know, weren't able
15 to be done. This looks to me like --

16 Q. What other changes?

17 A. Well, I think some -- maybe some additional furniture,
18 some of the things that I -- some things I think would improve
19 behavior management at the facility.

20 Q. What furniture purchases are you -- what recommendations
21 did you make about furniture purchases?

22 A. Well, I've continued to recommend, probably since 2017 to
23 varying degrees of detail in my reports, that they get rid of
24 those steel tables, buy detention -- you know, durable
25 detention-grade chairs and tables that can be reconfigured or

1 placed around the unit in a different way, that can be brought
2 together for groups or separated for individual purposes; a
3 chair -- a decent chair that a youth could sit in to read a
4 book or watch TV without sitting on the steel tables. So
5 I've -- so it's been really trying to make that a more sort of
6 normative environment to sort of calm down things in the units
7 themselves.

8 Q. And when did you first make that recommendation about
9 furniture and other items that might make -- improve the
10 facility?

11 A. I don't -- I can't say for sure, but my guess is it was
12 probably no later than May or June of 2017.

13 Q. Okay. And do those tables that you're referring to that
14 you recommended in 2017, do those tables cost money to
15 purchase?

16 A. Yes.

17 Q. More money than the approved budget would potentially
18 allow for, given the other operational needs of the facility?

19 A. Apparently. And I very early on and probably in one of
20 the periods when Mr. Burnside was working as -- while he was
21 the operations manager, but he had -- he had developed
22 essentially a purchase list. They had been trying to get it
23 funded almost -- almost from the time I first talked with him
24 about it. So he -- they had a notion of what they needed to
25 buy. They just could never get the money to do it.

1 Q. You mentioned that Mr. Frazier's concerns also included
2 staff salaries. Can we look at the second paragraph here
3 that's in the portion that's blown up on the screen? Do you
4 see where he writes of "several failed attempts to get
5 authorization and support from the County administrator and
6 Board of Supervisors" for higher salaries to improve staffing?

7 A. Yes.

8 Q. Is staffing an issue at Henley-Young?

9 A. Yes.

10 Q. And do you know what failed attempts he's referring to?

11 A. I know that during his first tenure as director, he had
12 actually done the work of developing -- kind of gathering
13 information, kind of a comparison study of what other counties
14 in Mississippi, other counties -- I don't know -- I don't know
15 the counties well enough to know the comparisons, but other
16 counties that had youth facilities, what they were paying for
17 the kind of youth care staff that sort of -- you know, the
18 frontline staff. He had done developed a comparison study.
19 So well over -- well over a couple years ago, he had developed
20 that and I think presented it sort of up the chain. He
21 obviously didn't get any response.

22 Q. You said he did not get any response to that study?

23 A. Correct.

24 Q. And what were the recommendations in this study?

25 A. Well, I don't know if he had a specific amount. Not too

1 long ago, the Mississippi Department of Corrections posted
2 jobs with less requirements and, frankly, less work for around
3 \$30,000 a year. So I think -- I don't think back in that
4 original study he was necessarily proposing a rate that high.
5 He was more or less just trying to show that Hinds County was
6 below the -- well in the bottom third or quarter of counties,
7 and then I think when the Department of Corrections made their
8 salary higher, he then began proposing that as a salary basis.

9 Q. You talked about a salary for the Department of
10 Corrections of \$31,000. What is the salary for staff that
11 supervise youth at Henley-Young?

12 A. Right now the job is posted at about 27,000.

13 Q. Okay.

14 A. Which is a -- which is an increase, I should point out,
15 one of the increases he got by limiting the other positions.

16 MS. VERA: So let's look at the last sentence -- or,
17 sorry, the -- well, yes. Let's zoom back out again, please,
18 on the exhibit and just zoom in only on that second paragraph.

19 BY MS. VERA:

20 Q. Mr. Moeser, do you see at the -- towards the end of the
21 third line, Mr. Frazier writes, "I had to initiate a reduction
22 of positions to fund a slight salary increase for certain
23 staff members. Is that what you were just referring to?

24 A. Yes. It was my understanding that -- and this was in
25 part parallel with increases that were being made for jail

1 officers at RDC who were getting increases that were not given
2 to staff at Henley-Young. He felt he needed to do something
3 for the staff at Henley-Young to, you know, show support for
4 them as much as he could, so he came up with this idea of
5 reducing some positions in the budget and using those dollars
6 to increase the salary for the staff that were there, for the
7 youth care professionals, the frontline staff only. There was
8 not an increase for supervisors or other management.

9 Q. And do you know -- Mr. Frazier says that he initiated a
10 reduction of positions to fund that. Can you please explain
11 what that refers to?

12 A. So I believe in the budget, there were 49 -- originally
13 49 youth care professional positions authorized. Those youth
14 care professionals are the frontline staff supervising the
15 youth daily. In order to fund an increase for other staff, he
16 proposed -- or they agreed to reduce seven -- eliminate seven
17 of those positions from the 49 in the budget, leaving them
18 with 42 budgeted positions.

19 Q. And do you know of any plans to reinstate those seven
20 positions?

21 A. No.

22 Q. What kind of a salary increase did the elimination of
23 those seven positions facilitate?

24 A. I think it was -- I think -- I think it was about
25 10 percent. I mean, it was a notable jump from where they

1 were a couple years ago. I don't know about the -- and I
2 don't know. There's been discussion back and forth about this
3 5 percent increase, and I don't know if that's taken effect or
4 still being talked about. But it's -- it went from about --
5 it was about a 10 to 15 percent increase from where they were.

6 Q. And did doing that lead to more stability in staffing or
7 fewer vacancies at Henley-Young?

8 A. Not yet. It's --

9 Q. Did anyone --

10 A. That was done, I think, in September, maybe.

11 Q. Did anyone from Hinds County ask for the monitoring
12 team's input regarding the elimination of seven positions?

13 MR. MORISANI: Objection. Leading.

14 THE COURT: Don't lead the witness.

15 BY MS. VERA:

16 Q. Mr. Moeser, when did you find out about the elimination
17 of those seven positions?

18 A. After it happened. And I don't, frankly, recall whether
19 it was a conversation or an e-mail. I think it was a phone
20 conversation where we might have been talking about something
21 else and he mentioned it.

22 Q. You mentioned and Mr. Frazier's letter mentions a
23 5 percent across-the-board pay increase to staff. Did that
24 pay increase apply to Henley-Young staff?

25 A. I don't know.

1 Q. Can you look at the last sentence of the paragraph in the
2 exhibit? "However, an across-the-board 5 percent pay increase
3 for staff has been proposed" --

4 A. Sure.

5 Q. -- "which has had an impact on the morale and focus of
6 the staff employed at Henley-Young."

7 A. Sure.

8 Q. What does he mean where he says that that has had an
9 effect on the morale and focus of his staff?

10 MR. MORISANI: Objection.

11 A. Well, I don't --

12 MR. MORISANI: Calls for speculation.

13 THE COURT: There's an objection, calls for
14 speculation. Objection sustained.

15 BY MS. VERA:

16 Q. We can move on.

17 A. Okay.

18 Q. Since Mr. Frazier resigned, has the County approved any
19 salary increase for Henley-Young staff?

20 A. Not that I'm aware of.

21 Q. And the 27,000 number that you testified to earlier, is
22 that the current salary?

23 A. That's the current salary that's posted on their website.

24 Q. Do you believe Mr. Frazier had the County Board's support
25 to operate Henley-Young safely?

1 A. No.

2 Q. Do you believe prior directors had that support?

3 A. No.

4 Q. Are the funding and staffing issues we've been speaking
5 about likely to change with the new sheriff?

6 MR. MORISANI: Objection. Calls for speculation.

7 THE COURT: You can re-ask your question.

8 BY MS. VERA:

9 Q. Is it your understanding, Mr. Moeser, that the funding
10 and staffing issues are -- continue to this day?

11 A. Yes.

12 Q. Let's talk a little more about the staffing and
13 supervision at Henley-Young. So we talked about the -- you
14 mentioned the -- you called them frontline staff, youth care
15 professionals. Those are called YCPs by folks who work at
16 Henley-Young?

17 A. Yes.

18 Q. Okay.

19 A. Yes, the acronym is YCP.

20 Q. And is it accurate that the YCPs supervise the youth at
21 Henley-Young?

22 A. They have lots of functions, but one of the primary ones
23 is certainly the direct supervision of youth in the facility.

24 Q. Do they supervise both the JCAs and the youth court
25 population?

1 A. Yes.

2 Q. What are the duties of YCPs?

3 A. Well, they vary. I mean, there's -- or there -- there's
4 a variety of things they would be responsible for over the
5 course of a day. You mentioned the -- sort of the direct
6 supervision of youth on the unit, so depending on what time of
7 day and what's happening -- excuse me -- they would be
8 responsible.

9 So, for example, in the morning, they get up, making sure
10 they're getting up -- excuse me -- getting their rooms cleaned
11 or whatever other sort of requirements they have. They
12 serve -- make sure the youth get their meals. They supervise
13 youth in the showers, clothing allotments and changes, sort of
14 all the things that it takes to sort of run day to day.

15 They would then, you know, supervise youth, making sure
16 youth get to whatever programmatic activity they're supposed
17 to be involved in. So they may be escorting youth to the
18 school or to the recreation area. They escort youth to the
19 medical area or to the -- working with one of the therapists
20 to the multipurpose room.

21 So they're all -- they're constantly with the youth
22 providing direct supervision and care. They intervene in --
23 try and intervene or, ideally, prevent incidents from
24 occurring. They do room observations, wellness checks, kind
25 of that whole variety of activities. They ideally would

1 support the youth support specialist or other program staff in
2 conducting activities, social activities, self-development
3 activities.

4 They would, you know, escort youth to visitation -- you
5 know, kind of as visitation -- kind of all the day-to-day
6 things that happen over the course of a day, up through meals,
7 up through programs, up until it's time to go to bed at night.
8 They do room checks. They do searches when youth move
9 throughout the facility when needed. A whole variety of
10 things.

11 Q. You mentioned responding to incidents and, ideally,
12 preventing incidents. So does that mean that they're
13 responsible for safety and supervision of youth?

14 A. Yes.

15 Q. Would you say that the YCPs have an important job?

16 A. Oh, absolutely. I mean, all of the positions at
17 Henley-Young working together is what really makes the program
18 function, but the YCPs are the ones that are in most contact
19 with the kids day in and day out. They have the most --
20 they're the most time with the youth. They have the most --
21 probably the biggest impact on the youths' behavior and
22 emotions. They have the biggest impact on how youth feel
23 about being in the facility, whether they feel safe or not, so
24 it's really an important role.

25 Q. Is it a difficult job?

1 A. Yes. Yes.

2 Q. What are the challenges?

3 A. I've done that.

4 Well, it depends on -- well, a lot of things. One is
5 it's a full day. It's a busy day. It's -- you know, you're
6 trying to -- especially if you've got a good program, you're
7 responsible for making sure youth are getting to where they're
8 supposed to be. You're making sure that -- I mean, there are
9 all the little things throughout the day in terms of safety
10 and security that you monitor, have to be aware of. You have
11 to work -- you know, interact with the youth in a positive way
12 so that hopefully they don't get angry and disruptive. You
13 have to be -- you have to be attentive all the time to the
14 mood and things you might hear between youth, so really play
15 an absolutely significant role.

16 The best safety really within the facility other than
17 sort of the physical plant things, which we're not talking
18 about, but other the physical plant things, the greatest
19 contributor to safety within the facility is the relationship
20 that they have in supervising youth and how the youth view
21 them and how youth respond to them.

22 Q. How would you describe the work environment, the YCP's
23 environment?

24 A. Well, I would say a couple things. The way things are
25 now, given the staff shortage, it's very -- extremely

1 challenging. It's hard to do all the things you're supposed
2 to do and do them well. The physical plant itself is not
3 particularly comfortable. Again, oftentimes that's -- the
4 staff, the only place they can sit is at one of the steel
5 tables. Acoustics within the units themselves are terrible.
6 It echoes. It echoes so much, it's hard for me to hear,
7 anyway, when I'm there, not to mention the sort of challenges
8 the kids present. So it's a whole other area. But the
9 physical plant, there's no natural light within the units.
10 It's not a particularly great place to be for eight-hour
11 shifts. So it's a tough -- it's a tough environment.

12 Q. Is there an educational requirement for YCPs?

13 A. I believe it's a high school degree. I don't know
14 offhand if a GED equivalent meets that or not. I think it
15 does, but I'm not 100 percent sure.

16 Q. When someone starts as a YCP, do they typically have
17 experience with youth custody?

18 A. No, I don't think so. There's really -- I'm not sure
19 there's any other places like that around there that they're
20 drawing from. My guess is certainly that if they're finding
21 somebody with experience, they've been working at a higher pay
22 somewhere else, but I don't think there's many people like
23 that.

24 Q. What are the types of jobs and employers that
25 Henley-Young has to compete with for potential applicants?

1 A. You know, I don't know the job market there very well,
2 but it certainly has everything from fast-food places to, you
3 know, warehouse-type jobs. You know, I don't -- I don't have
4 a good handle on necessarily all the different things that are
5 there. I know in the past they've talked about some
6 warehouse-type jobs coming in they also have to compete with.
7 Now they have to compete with jail officers and they have to
8 compete with the Mississippi Department of Corrections.

9 Q. You just said "they've talked about warehouse jobs." Who
10 is "they"?

11 A. Usually I think it's probably been either the director
12 or -- and/or Mr. Burnside or Mr. Frazier or Mr. Dorsey. It
13 would be sort of a casual conversation about staffing levels
14 and the challenges they're having when they try to hire
15 people.

16 Q. Does the YCP position require training?

17 A. Yes.

18 Q. Does that training go to the YCP's understanding of
19 rules, policies, and procedures?

20 MR. MORISANI: Objection. Leading.

21 THE COURT: Objection overruled.

22 A. Well, when it's -- yeah. So the ideal would be that they
23 would have at least 40 hours of fairly formal training that
24 would include a review of policies and procedures for the
25 facility. That's, I think, set for about eight hours of a

1 40-hour formal process. That's -- you know, that's not --
2 it's okay to sort of let staff know where policies are, but
3 it's certainly not enough to cover all the policies and
4 procedures in any depth.

5 They do a -- what's called Crisis Prevention Institute
6 training. I think that's a 16-hour program within that
7 40 hours. That's both a CPI -- CPI is a process of working
8 with youth that includes both sort of deescalation skills as
9 well as some physical restraint skills.

10 They usually do some training on report writing a little
11 bit. I'm trying to think of other elements of the 40 hours.
12 But some basic training like that for the 40 hours and then
13 ideally at least 40 hours of on-the-job training with
14 mentoring from someone else would be at least -- that would be
15 the minimum that somebody should get.

16 Q. The minimum for what?

17 A. From the time someone is hired to before they're actually
18 placed supervising youth on a unit, and ideally I would want
19 them to at least spend a couple more weeks not as the sole
20 staff member on a unit.

21 Q. And are YCPs at Henley-Young receiving that minimum level
22 of training before they do those things?

23 MR. MORISANI: Objection.

24 A. I think not --

25 THE COURT: Hold on. There's an objection on the

1 floor. Mr. Moeser, hold on.

2 MR. MORISANI: Leading.

3 THE COURT: Don't lead the witness.

4 BY MS. VERA:

5 Q. Mr. Moeser, you just testified to a number of criteria
6 that you consider to be the minimum before YCPs supervise
7 youth on the unit; correct?

8 A. Yes.

9 Q. Do YCPs receive the minimum training?

10 MR. MORISANI: Objection. Leading.

11 THE COURT: Objection overruled.

12 A. Not always.

13 MS. VERA: Can we pull up PX-1, please, at page 37.

14 And can we zoom in to paragraph 82?

15 BY MS. VERA:

16 Q. Mr. Moeser, this is the consent decree in this case. Is
17 this the paragraph that you evaluate as to staff training?

18 A. Yes.

19 Q. And the consent decree says "Provides that staff members
20 who are assigned to supervise youth are to receive training on
21 youth-specific policies and procedures as well as on
22 age-appropriate supervision and treatment strategies." Then
23 it reads that these staff are to receive "specialized
24 training," and that is to include training on the "supervision
25 and treatment of youth, child and adolescent development,

1 behavioral management, crisis intervention, conflict
2 management, child abuse, juvenile rights, the juvenile justice
3 system, youth suicide prevention and mental health, behavioral
4 observation and reporting, gang intervention, and
5 deescalation"; correct?

6 A. Yes.

7 Q. And are the defendants in compliance with this provision
8 of the settlement agreement?

9 A. Not to my -- no. I tend to rate it as partial
10 compliance.

11 Q. And do you believe that these training topics are
12 necessary to ensure youth safety and programming needs are
13 met?

14 A. Yes. I should add, also, just for the record, I guess,
15 that eventually staff are required to go through a 120-hour
16 program that's provided by some State definition of detention
17 officer of some kind. Some of -- a couple of these things are
18 included I think in that (AUDIO GAP).

19 Q. In your role on the monitoring team, have you made
20 recommendations about training and professional development?

21 A. I've made recommendations about professional development
22 and some online training options or ideas.

23 Q. We've talked about staffing issues a little bit. Do
24 staff vacancies have an impact on the ability to train staff?

25 A. Yes. And there's a number of ways that that's happening.

1 I believe one is that -- one is staff come in, get some
2 initial training, that very basic training that I kind of
3 alluded to. They may not stay long enough to get any more
4 advanced training.

5 There are some -- you know, opportunities for additional
6 training that staff can't take advantage of because they can't
7 be freed up from a shift of work to go to the training. And
8 frequently when asked about training or other things going on,
9 it would be mentioned that partly because of the -- well,
10 largely because of the low pay, many of the YCP staff had
11 second jobs or in many -- in some cases this was their second
12 job.

13 So it's very difficult to -- there's not enough YCP staff
14 to schedule training in a way that gets them free from a
15 shift, it's difficult to do it before and after a shift, and
16 the turnover is high. So they really never get beyond these
17 sort of basic elements of training.

18 Q. Mr. Moeser, you testified that there are times when YCPs
19 supervise youth before they've received the full complement of
20 required trainings. I want to ask you about an incident that
21 occurred on January 10th.

22 MS. VERA: Can we please pull up PX-73?

23 BY MS. VERA:

24 Q. Mr. Moeser, are you familiar with this incident? If you
25 need to look at other pages of it, that's fine.

1 A. That's good. I recall it.

2 Q. Okay. Are you familiar with this incident?

3 A. Yes.

4 Q. Can you briefly describe what happened in this incident?

5 A. Yeah. This is an incident where, I think, two -- I think
6 there were only two girls, or at least there were two girls --
7 it may have been another girl or two on the unit, but I think
8 there were only two girls on the facility who were in, I
9 think, the visitation area making their way back to the living
10 unit, to the pod.

11 As they go back, they are, you know, loud and boisterous
12 and apparently trying to yell or make contact through doors of
13 the boys' unit and the staff member is, you know, trying to
14 get them to get back to the unit where they're supposed to be
15 and kind of things escalate from there. The youth threaten
16 the staff member, begin to physically approach her in a
17 threatening way. She removes her belt and starts swinging it
18 around.

19 Apparently one of the youth said she kind of slammed it
20 on the table, but it became sort of escalated and verbal to
21 the point where one of the youth was struck with the belt and
22 also then engaged in a physical wrestling match with the staff
23 member. The girl was taken for medical care and had some cuts
24 and bleeding and injury to her lip and, I think, a cut on
25 her -- the side of her face, I think. So it was a --

1 Q. Mr. Moeser -- go ahead, please.

2 A. Well, it just kind of escalated to a physical
3 confrontation and ultimately the staff member used the belt as
4 a weapon, essentially.

5 Q. So on the first page of this incident report, do you see
6 at number 7 of this checklist it says "Was force used," and
7 the check box is checked for "Yes."

8 A. Yes.

9 Q. And it says "Pinned her to the floor"?

10 A. I see that, yes.

11 Q. What is that line typically for that was filled in here?

12 A. That's meant for the -- this form itself is completed by
13 the supervisor in reviewing the incident report that the staff
14 member writes. So this is meant to -- the form itself is
15 meant as kind of a quality assurance check of what's in the
16 report, does it include the basic elements that are consistent
17 with best -- with expected practice so you see things like
18 "Was verbal de-escalation used," and the "Yes" box is checked.
19 Well, I'm not sure that's true, but, you know, this gets
20 checked like that.

21 This particular line item usually is meant to reflect
22 what level of force, if some kind of restraint was used.
23 Through the CPI training, there are particular kinds of
24 restraints that are taught. So typically you'll see an
25 incident report that talks about maybe a type of hold or a

1 type of restraint. That's what's included here, or if there
2 was any other force used of some kind.

3 Q. And just to clarify, you were just referring to CPI
4 training, which you had testified about a bit earlier. Is
5 "pinned her to the floor" a use of force that would be covered
6 in a training?

7 A. No. And any -- you know, taking kids to the floor is
8 often sometimes referred to as "taking them to the floor" in
9 facilities. It's risky and dangerous and can be -- result in
10 injury. Certainly any kind of situation in which a youth is,
11 you know, thrown on the floor and a staff member puts weight
12 on them could restrict their breathing, *et cetera*. So
13 anything along the line of "to the floor" is not an
14 appropriate technique.

15 MS. VERA: Could we please look at the lower half of
16 this page?

17 BY MS. VERA:

18 Q. Mr. Moeser, what is this "Comments" portion and signature
19 line on the form for?

20 A. It's meant, again, to -- it's meant for an opportunity
21 for the supervisor to make any additional comments about the
22 incident or the incident report itself. They may, you know,
23 gather some additional information in talking with the staff
24 member that could become kind of a supplement. It may be a
25 comment about whether what the staff did was proper or not.

1 It may include -- you know, maybe they interview another --
2 oftentimes in situations like this, there's more than one
3 staff member who ultimately gets involved. It may include
4 reference to any conversations with that person. But this
5 section is almost -- I rarely see anything written in this
6 section by any supervisor.

7 Q. Do you review these supervisor checklists and sign off on
8 other incident reports?

9 A. Yes.

10 Q. And, Mr. Moeser, you had just testified that on Number 3
11 on this checklist, the question about verbal de-escalation,
12 you said something like you're not sure it's true. Can you
13 elaborate, please?

14 A. Well, especially in this report, I don't recall anything
15 in particular that referenced that at all, and, you know, it
16 really begins with sort of the youth were making threats and I
17 told them to get to their unit. That's -- and there's no
18 reference to any kind of -- as I recall -- and I could reread
19 the incident, but I don't recall anything in particular that
20 would describe any real meaningful or verbal de-escalation
21 attempt, and that's fairly common as well. These often -- you
22 know, often verbal de-escalation from the staff -- what's in
23 the incident report will be the staff member saying, "Well, I
24 told them to go to a different part of the room," and they --
25 it's more of a command than it is any attempt at verbal

1 de-escalation. There's rarely any reference to -- rarely, if
2 ever, frankly, any reference to taking the youth aside,
3 talking with -- trying to get them to calm down. There are
4 occasions like that, but relatively rare, so it seems like
5 this almost gets checked regardless of what's in the report.

6 Q. And who checks all of these boxes, just so that we're
7 clear?

8 A. The supervisor for each -- each shift has one or more
9 supervisors on duty at the time, so it would be one of those
10 supervisors.

11 Q. And when the supervisors fill out this form, does that
12 constitute a meaningful review?

13 A. I don't think so. I mean, I like the form. I think it's
14 intended to be used, but I don't think most supervisors have
15 the time or -- the quality of that review is, I think, very
16 limited.

17 Q. Why do they not have the time to do a better quality
18 review?

19 A. Well, the staff shortage creates issues. So oftentimes
20 shift supervisors are actually performing the duties of a YCP
21 to cover a shift because there's not enough YCPs to cover a
22 shift. So this becomes sort of a, you know, thing I got to
23 do, get it off my list so I can go back to doing whatever I
24 was doing, which may mean supervising -- which may mean
25 actually supervising a unit.

1 Now, I can't speak to this particular incident, what was
2 going on, whether that was the case or not, but given --
3 looking at shift reports and in discussions in this last
4 interview series, supervisors would essentially say they don't
5 have the time to be a supervisor, they're busy covering
6 shifts.

7 Q. Mr. Moeser, is a limited review like this sufficient?

8 A. Well, I would -- I would say there's -- I would say this
9 is the first step, if it's done well, of a review in the sense
10 of the supervisor needs to play that role of reinforcing and
11 teaching and training the YCPs. They may get some initial
12 training on, okay, if you -- if an incident occurs, you have
13 to fill out a report.

14 The best training comes from what's -- sort of what's
15 reinforced over time. So as a process, this is a -- could be
16 a good tool if it's used properly as the first step.
17 Subsequently, typically the operations manager sees these, and
18 I think now the director gets all of these as well. That's
19 another sort of review where they can sort of push back and
20 sort of hopefully gradually improve the quality of the
21 incident reports themselves and ultimately the quality of work
22 the staff used, but as sort of a teaching tool, something like
23 this could be useful. Staff do what gets reinforced, and if
24 nobody's asking them these questions, they just -- they won't
25 bother.

1 MS. VERA: Your Honor, the United States moves to admit
2 PX-73 into evidence.

3 THE COURT: Any objection?

4 MR. MORISANI: No objection.

5 THE COURT: PX-73 will be received into evidence.

6 (Plaintiff's Exhibit 73 entered.)

7 MS. VERA: Can we pull up PX-75, please?

8 BY MS. VERA:

9 Q. Mr. Moeser, do you recognize this document?

10 A. Yes.

11 Q. Please identify this document.

12 A. This is the start of an e-mail chain between myself and
13 Mr. Crisler and kind of in follow-up to the incident we just
14 discussed, as I recall, and although I don't do it very often,
15 if I see an incident that causes concern, especially if it's
16 an issue of, you know, a staff member that may have acted
17 inappropriately to the point where I'd be concerned about
18 safety, I would send an e-mail or call. This one I sent an
19 e-mail. So this is his response to the questions I asked him.

20 MS. VERA: The United States moves to admit PX-75.

21 THE COURT: Any objection?

22 MR. MORISANI: No objection.

23 THE COURT: PX-75 will be received into evidence.

24 (Plaintiff 's Exhibit 75 entered.)

25 BY MS. VERA:

1 Q. Mr. Moeser, how did Mr. Crisler, who is the current
2 interim director of Henley-Young, explain the officer's
3 conduct in response to this incident?

4 A. You know, his basic response is that she was new, had not
5 gotten any formal training, that, you know, she did this to
6 protect herself, and that she would be sent for training
7 coming up, but that she was not adequately trained and not
8 able to do what she should have done.

9 Q. And so are you referring to paragraph numbered 1 where
10 Mr. Crisler writes that that YCP "has yet to receive any
11 formal training"?

12 A. Correct.

13 Q. Was this YCP supervising the girls' unit on her own when
14 the incident occurred?

15 A. I believe so, yes.

16 Q. And how much experience did she have on the job? We can
17 look back at --

18 A. Well, he said a little over two -- yeah, a little over
19 two weeks, really, so pretty limited.

20 Q. Should this YCP have been supervising youth on her own?

21 A. No.

22 Q. Why was the YCP supervising youth on her own?

23 A. You know, I didn't ask that specifically, but I can only
24 assume that -- that they had --

25 MR. MORISANI: Objection.

1 THE COURT: Hold on. Hold on, Mr. Moeser. There's an
2 objection. Hold on, Mr. Moeser. Hold on. Hold on.

3 The objection?

4 MR. MORISANI: Just to speculation. He said he'd have
5 to assume.

6 THE COURT: What was your question again?

7 MS. VERA: I asked why this YCP was supervising youth
8 on her own.

9 THE COURT: And what's your response to that,
10 Mr. Moeser?

11 THE WITNESS: Well, knowing that they have a staff
12 shortage and that there were only two girls on the unit, my
13 assumption, right or wrong, was that they --

14 THE COURT: No. Objection sustained. You cannot make
15 an assumption. You cannot assume it, but based on your
16 reviews or conversations with -- I'll allow you to ask your
17 questions. Excuse me. Ask your question again.

18 BY MS. VERA:

19 Q. Okay. Mr. Moeser, why was the YCP supervising youth on
20 her own? If you don't know, you can say you don't know.

21 A. I don't know.

22 Q. In paragraph number two of Mr. Crisler's e-mail, do you
23 see where he writes about YCP Cooper's calls for assistance?

24 A. Yes.

25 Q. What circumstances would lead to a call for assistance?

1 A. Anytime there's, oh, clearly physical -- physical
2 restraints being needed or physical intervention that's being
3 needed, staff will do what they call a code yellow, which is
4 meant to bring other staff to that area.

5 MS. VERA: Can we please return to PX-73, page 2. If
6 we can zoom in on the narrative portion. Yeah. Thank you.

7 BY MS. VERA:

8 Q. Mr. Moeser, this is the same incident report we were
9 discussing previously.

10 A. Yes.

11 Q. This is page 2 of that document. Who is the person
12 reporting on this page?

13 A. This is the Youth Care Professional Cooper.

14 Q. And is that the YCP who swung her belt and hit the girl
15 with her belt?

16 A. Yes.

17 Q. So below in the narrative section, where it says "I,
18 Youth Care Professional Brenda Cooper, was returning back to
19 JFK from giving phone calls to residents," and the names of
20 the residents, do you see that?

21 A. Yes.

22 Q. Okay. And then towards the end after Ms. Cooper has
23 described her account of the incident, do you see where it
24 says, "I grabbed her and forced her to the floor. I held her
25 so she couldn't hit me until someone came. YCP Jamal Pierce

1 and SYCP Darius Ellis came and told me to let her go. We got
2 her"?

3 A. Yes.

4 Q. Okay. Did Ms. Cooper continue to supervise youth
5 following this incident?

6 A. In looking at -- well, she was, I believe, given a
7 several-day suspension, and in looking at shift reports in the
8 last couple weeks, she has been on them, I think, in almost
9 all cases, if not all cases, with another staff member.

10 Q. Okay. But she did continue to supervise youth following
11 the incident?

12 A. Yes.

13 Q. I'd like to move on to other staffing issues.

14 MS. VERA: Your Honor, I'm happy to continue, but this
15 is a point where I was going to stop discussing those
16 exhibits.

17 THE COURT: Okay. This will be an appropriate time for
18 our afternoon break. And let's just talk about -- it sounds
19 like you might have a ways to go.

20 MS. VERA: Yes, Your Honor.

21 THE COURT: It looks like we won't get to his
22 cross-examination this afternoon. To be fair to you-all, I
23 don't want to rush anybody. So take whatever time you need,
24 and we will take up a couple of other matters before we close
25 today related to this case, but nothing about scheduling

1 anything. There's a motion and stuff that the parties have
2 responded to, for example, and there's a couple other things I
3 just want to say.

4 It's 2:55. Let's come back at 3:15 for our afternoon
5 break, and we're in recess.

6 (A brief recess was taken.)

7 THE COURT: You may be seated.

8 All right. I failed to do one thing that I always do
9 throughout the course of my trials, in every trial and
10 everything that I have, and I learned this from a wise old
11 man -- well, not an old man then. He was not old.

12 You can take this case out of my hands or the hands of
13 the jury at any time you want. There's no harm in getting
14 your case resolved at every stage of the proceeding. I
15 usually say that at any portion of the case, whether it's
16 after any witness, after any thing, after any ruling. The
17 case is in the parties' hands at all times, and you can always
18 seek to get it resolved. That's all. I learned that from
19 somebody long ago.

20 So is the United States ready to continue?

21 MS. VERA: Yes, Your Honor.

22 THE COURT: All right.

23 BY MS. VERA:

24 Q. Mr. Moeser, earlier on we were talking about the director
25 of Henley-Young and that currently the interim director is

1 Mr. Crisler. Are there any plans for a permanent director?

2 A. To my knowledge, the job is posted on the County website.
3 Whether they're doing any additional recruitment, I don't
4 know, but they are posting and presumably going to accept
5 additional applications.

6 Q. Okay. I'd like to move on to discuss staffing issues in
7 a little more detail. We were discussing that earlier.

8 MS. VERA: Can we please look at Plaintiff's Exhibit
9 PX-28.

10 BY MS. VERA:

11 Q. Mr. Moeser, have you reviewed this document?

12 A. Yes.

13 Q. And what is it?

14 A. This looks like their basic organizational chart showing
15 what personnel are on the staff and kind of what their
16 positions are.

17 Q. And is this the organizational chart that was provided as
18 part of the documents obtained for the October 2021 site
19 visit?

20 A. I believe so, yes.

21 MS. VERA: The United States moves to admit PX-28 into
22 evidence.

23 THE COURT: Any objection?

24 MR. MORISANI: No objection, Your Honor.

25 THE COURT: P-28 will be received into evidence.

1 (Plaintiff's Exhibit 28 entered.)

2 MS. VERA: Is it possible to zoom in on the bottom
3 half? Thank you.

4 BY MS. VERA:

5 Q. Mr. Moeser, does this part of the chart show the YCP
6 positions and then above them it's the senior youth care
7 professionals and above that the youth care supervisor
8 positions?

9 A. Correct.

10 Q. So the boxes with either somebody's name or the word
11 "vacant," are those YCP positions?

12 A. Correct.

13 Q. How many YCP positions or identified posts for YCPs are
14 there for Henley-Young?

15 A. There are 42 on this chart.

16 Q. And of those 42, how many were vacant as of the date of
17 this chart?

18 A. I think I counted this as -- I think 17 if my counting
19 was correct. Sixteen.

20 Q. I'm counting 16 as well. Okay.

21 A. Yeah, 16.

22 Q. And have current staffing numbers changed since October?

23 A. Yes. It's kind of a moving target. I think an
24 additional chart I got more recently, I think there were 20
25 vacancies and then the more recent one was back to, like, 18.

1 So it's kind of a rolling target as they bring people on and
2 people leave.

3 Q. On this chart how many YCP positions are there per shift?

4 A. Well, the first shift has 18. The second shift and third
5 shift have 12 assigned to those shifts. People are hired for
6 those shifts in terms of (AUDIO GAP).

7 Q. And what are the -- do you know the hours of the three
8 different shifts?

9 A. I think they work on, like, 7:00 to 3:00 and 3:00 to
10 11:00 and 11:00 to 7:00 hours.

11 Q. How many YCPs typically cover a shift?

12 Sorry. I failed to ask the question I was going to ask
13 you before that.

14 Do you review shift reports? You talked about reviewing
15 shift reports for the facility?

16 A. I do.

17 Q. And do those -- do those tell you how many YCPs are on a
18 given shift?

19 A. How many YCPs and supervisors are on a shift, yes.

20 Q. And how many YCPs and supervisors are typically covering
21 a shift?

22 A. Oh, I would say the day shift, the 7:00-to-3:00 shift,
23 has typically seven to nine. The second shift often has six,
24 maybe seven, but more often six, sometimes five. The night
25 shift is five or six, more often five.

1 Q. And how many YCPs on a given shift are covering each
2 unit, each housing unit or pod?

3 A. Of course, it depends on how many they have on that
4 particular shift. Sometimes there are two. More often there
5 is one person. There may be a supervisor covering one of the
6 units. They also have to cover intake, the control center, so
7 they're spread across all those areas.

8 Q. Looking back at the chart, there are seven blank
9 rectangles along the bottom. What are those?

10 A. Those are -- represent the seven positions that were
11 eliminated in the budget during the allotment so that other
12 staff could get a salary increase.

13 Q. Are those the same seven positions we were discussing
14 earlier that are referenced in Mr. Frazier's resignation
15 letter?

16 A. Yes.

17 Q. Is there a standard ratio needed to operate a juvenile
18 justice facility safely?

19 A. Well, so the number of staff -- well, I guess let me
20 think the best way to answer that.

21 Well, let me start with the number of staff depends
22 clearly on the number of youth. It also depends on what the
23 configuration of the facility is and how easy it is to monitor
24 youth, how many different areas have to be staffed, whether or
25 not there is a control center that's critical to operations.

1 There may be other functions.

2 For example, in this case they often escort youth to
3 youth court. Depends on how many youth have to go to medical
4 at any given point in time. So it's not a simple, you know,
5 for, in this case, 32 kids, you need X number of staff.

6 In terms of direct supervision, there is a standard PREA
7 expectation, the Prison Rape Elimination Act, of a minimum of
8 one staff member serving every eight youth or greater.
9 Operationally, my experience is that that's the absolute
10 minimum and not just --

11 THE COURT: Hold on. Hold on, Mr. Moeser. It seemed
12 like there's some unreadiness. Can you understand him?

13 MR. SHELSON: I'm sorry, Your Honor. We heard "one"
14 and then it sort of cut out, so we just didn't hear his
15 answer. That's all.

16 MS. VERA: Thank you. I was going to clarify the same
17 thing.

18 BY MS. VERA:

19 Q. Mr. Moeser, what's the ratio required under PREA?

20 A. A minimum of one staff member for every eight direct --
21 in terms of directly supervising youth.

22 THE COURT: Is that -- did you say one for every eight?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Thank you.

25 BY MS. VERA:

1 Q. Mr. Moeser, are there currently enough YCPs on staff at
2 Henley-Young?

3 A. No.

4 Q. Have you made recommendations about YCP staffing,
5 vacancies, retention, or pay?

6 A. Yes.

7 Q. When did you first make such recommendations?

8 A. I think probably late in 2019. It had been something
9 that I sort of monitored along the way in terms of how many
10 vacancies there were. There were always some vacancies, but
11 oftentimes Mr. Burnside, because of the frequency with which
12 he was actually running the show, more or less, would -- we
13 would talk about that and he would talk about pay being a
14 critical factor.

15 So we would talk about the number of vacancies, what the
16 trends were, what steps were they trying to take to recruit
17 people, things like that. So I began recommending more
18 directly two things:

19 One is an increase in pay or referencing that it really
20 was -- needed to be upgraded somehow. More recently, once the
21 Department of Corrections set their number, it was clear that
22 had to be at least the benchmark.

23 And then I also recommended some sort of, you know, pay
24 progression or advancement system in which staff who stayed
25 could gradually see an increase in their pay based on usually

1 some sense of longevity. You could tie in some merit increase
2 if you wanted, but basically some pay progression system or a
3 step system so that, you know, the longer you were there, you
4 would get -- you would get more money.

5 Q. And is there any such pay progression system or step
6 system in place at Henley-Young for YCPs?

7 A. No.

8 Q. Do staff vacancy levels affect the ability to ensure that
9 staff supervising youth are adequately trained?

10 A. Yes. I've talked about the difficulty in getting them
11 off shift for training or to schedule training, not having
12 enough staff to cover the units the way they should and trying
13 to pull them off. The -- many of them have second jobs and
14 can't be trained. The lack of step -- step system or the lack
15 of -- sort of where you're not retaining people, you're really
16 spending most of your time just recycling the basic training
17 versus trying to get to any advanced training.

18 Q. Do staffing levels have an impact on defendants' ability
19 to provide adequate supervision of the youth?

20 A. Yes.

21 Q. How so?

22 A. Well, the -- you know, I look at -- I guess the best way
23 for me to look at it, I think of safety and security within a
24 facility as kind of three -- for lack of a better term, a
25 three-legged stool that includes the physical, environment,

1 the physical plant, safety features, the doors, you know,
2 those kinds of -- the design itself.

3 The programming pieces that keep youth busy contribute a
4 lot towards safety and security.

5 And then ultimately the staffing level in terms of staff
6 being able both to adequately observe youth constantly, be
7 able to prevent incidents by intervening or, you know, taking
8 a youth aside when we see them getting agitated or basically
9 being able to prevent incidents from blowing up into fights or
10 more serious incidents.

11 And then ultimately if something does occur, having
12 enough staff available to intervene safely so you don't end up
13 having to implement some form of either a restraint or any
14 kind of physical contact that could result in injury.

15 You also want to be able to have staff available to -- if
16 you're dealing with a particularly disruptive youth or maybe a
17 fight between a couple kids, somebody who could kind of step
18 in and monitor the other youth and sort of keep them from
19 becoming engaged in the incident itself.

20 So there's a lot of situations that can be prevented by
21 good staffing; and even after incidents occur, they can
22 prevent them from becoming more serious and escalating
23 further.

24 Q. Do staffing levels have an impact on defendants' -- on
25 staff's ability to assist with programming goals, including

1 mental health and behavioral programming?

2 MR. MORISANI: Objection.

3 A. I think --

4 THE COURT: Hold on. We've got an objection.

5 MR. MORISANI: Leading.

6 THE COURT: What's the basis of your objection?

7 MR. MORISANI: Leading.

8 THE COURT: Objection's going to be overruled.

9 A. Can you just ask that again?

10 BY MS. VERA:

11 Q. Do staffing levels have an impact on the ability of the
12 YCPs to assist with mental health and behavioral programming
13 goals?

14 A. Yes. Let me start with the behavioral management and
15 other kinds of programming that's involved; keeping youth
16 active in constructive activities; being able to assist, for
17 example, the youth support specialist in going along and being
18 able to help facilitate a group or at last be in the group to
19 provide some backup if situations occur; being able to get
20 youth -- for example, we talked about the portable classrooms
21 that had been purchased and installed, but there's not
22 sufficient staff to take them out to that area for some of the
23 programming. So those areas would be much more conducive and
24 more appropriate for a small-group program that they currently
25 have available either in the classrooms or the multipurpose

1 space, so that in terms of programming, that's significant.

2 The behavior management aspect is -- I would say is more
3 complex in terms of staff being able to interact with youth
4 promptly and efficiently. When they see things either in
5 terms of incentivizing behavior or redirecting the youth, it
6 needs to be done promptly and, again, keeping things from
7 being, from escalating as kids manage to go from one level of
8 emotion to another in an instant. There have to be staff
9 available to watch that, monitor that, prevent that from
10 blowing up. So there's lots of ways they contribute to sort
11 of behavior management components as well.

12 Mental health, certainly as it relates to providing a
13 safe environment, we know most of these youth have had
14 significant experiences with trauma, witnessing violence, all
15 kinds of other -- transiency, all kinds of other trauma in
16 their life, and the ability of staff to provide a safe, calm
17 environment is critical to them not sort of experiencing that
18 in the facility.

19 Q. Are the defendants in compliance with the provisions of
20 the settlement agreement requiring mental health and
21 behavioral programming, specifically paragraphs 78 and 84?

22 A. Partially.

23 Q. Do staff vacancy levels affect the ability to facilitate
24 adequate school?

25 A. Yes. For a considerable length of time now, I've -- it

1 was true in the -- even the last time I was physically there
2 in February of 2020, there have been periods of time,
3 significant lengths of time now, when youth have -- they have
4 not been able to take all the youth to be at school for the
5 day. So they've implemented what they call an A/B system,
6 which one unit is in school and the other unit and group of
7 youth are on their individual pod supposedly working on work
8 packets the teachers provide.

9 So out of -- so they're really only going to school half
10 the days they should be, and the main reason for that is the
11 limited number of staff available to -- well, there's two
12 reasons. One is the limited number of staff available to go
13 and be in the school and still be able to provide supervision
14 for youth who are otherwise not in school for illness or other
15 reasons, maybe court, maybe -- you know, maybe therapy,
16 whatever, might have to see the nurse, things like that; and
17 the school area itself, it's very compact and not very
18 conducive to a safe environment for school.

19 Q. Are the defendants in compliance with paragraph 79 of the
20 agreement, which requires that they ensure that youth receive
21 adequate, free, appropriate education including, special
22 education?

23 A. No.

24 Q. And about how --

25 A. Well, there --

1 Q. Go ahead.

2 A. Well, there is a -- there is a staff member who is their
3 special ed teacher, who does -- they do get IEPs for kids with
4 individualized education plans for youth. So they get those.
5 She does try and provide extra support for those youth. They
6 don't have another special ed teacher currently, so that
7 limits that as well, along with the fact that they're only in
8 class half the time they should be.

9 Q. And when you say "they're only in class half the time
10 they should be," are you talking about JCAs?

11 A. Yes.

12 Q. And are you talking about all JCAs?

13 A. Yes.

14 Q. Okay. Paragraph 83 of the agreement refers to the use of
15 segregation. It prohibits the use of segregation as a
16 disciplinary sanction and provides for a number of --
17 subsections (a) through (i) provide for a number of
18 documentation requirements and other requirements related to
19 the use of segregation.

20 Are the defendants in compliance with paragraph 83?

21 A. No.

22 Q. Are they adequately documenting segregation as required
23 by the agreement?

24 A. I don't believe so, no. They have significantly reduced
25 the use of what they would call due process confinement in

1 which following an incident a youth would be confined to their
2 room for up to 24 hours with the opportunity, they say, to get
3 out for school or some other special -- you know, other kinds
4 of programs. That's been significantly reduced, and we'll see
5 where that goes going forward.

6 There are other circumstances in which youth are, both
7 anecdotally and I've tracked some of the incident reports,
8 placed in their room on what they call emergency behavior
9 management confinement or administrative confinement as a
10 cooldown period. That's not documented often on the incident
11 report itself, and there's no other place where that's
12 documented, and so it's -- and yet, for example, there's an
13 incident which -- there will be an incident where it talks
14 about returning a youth to their room, but there's no
15 information on the incident report itself on the bottom where
16 that should be documented. So we don't know how frequently or
17 often they use any kind of other behavior management isolation
18 for a short period of time.

19 Q. So paragraph --

20 A. Secondly --

21 Q. Oh, sorry. Go ahead.

22 A. Let me just add -- I'll add one more thing, and that is I
23 do get the observation logs for the youth on the due process
24 isolation, and that's helpful when I get them, but there's no
25 documentation, for example, of being checked by the mental

1 health person, or the incident report itself really doesn't
2 include any information about, you know, letting the youth out
3 of their room at some point. So it's not very well documented
4 that they're able to meet these conditions.

5 Q. Paragraph 83(e) requires that the County "specifically
6 document and record the use of segregation on youths." Is
7 that happening?

8 A. Not consistently at all, no.

9 Q. And subsection (f) requires that "a qualified medical
10 professional or staff member who has completed all training
11 required for supervising youth must directly monitor every
12 youth in segregation at least every 15 minutes. Such
13 observation must be documented immediately after each check."
14 Is that happening?

15 A. I don't believe so.

16 Q. Why not?

17 A. Well, there's two parts to that. One is the qualified
18 medical professional. That's never documented, from what I
19 can tell.

20 The other -- the reference to other staff supervising
21 youth, completed all training, if we even -- if we assume --
22 and I think the staff have received -- for the most part
23 received their basic training.

24 You must check at least every 15 minutes. Those are
25 recorded on an observation log and are supposed to be taped to

1 the door that the youth is in so that as the staff member goes
2 to the door, they can look and check and, if need be, go into
3 the room and check, but, you know, write it right at the time.
4 All too often you see an observation log that simply is every
5 15 minutes. It appears that somebody has at the end of the
6 shift or somewhere during the shift just decided, well, I
7 guess we have to fill this form out, so I'll put down 12:00,
8 12:15, 12:30, 12:45, 1:00, 1:15, 1:30, *et cetera*. That's
9 not -- that's not a reliable record.

10 Q. And you review those logs, Mr. Moeser?

11 A. I do.

12 Q. And just so I understand, the agreement requires
13 15-minute increment observations on the logs. So what is the
14 problem with every 15 minutes?

15 A. Well, the problem from my end is the documentation leads
16 me to believe that that's not being done, that it's simply not
17 feasible or logical that someone gets it 15 minutes exactly
18 every -- 24 hours straight. It's just not how it's going to
19 happen, especially as they have staff shortages and other
20 things. I can't -- it's hard for me to believe that that's
21 what's happening.

22 Q. And have you discussed this concern with leadership and
23 other staff at Henley-Young?

24 A. I have -- I have mentioned it, and I have included it in
25 my report probably ten times. I would say I have discussed it

1 with them less than that, maybe half a dozen times, usually as
2 part of an exit interview, exit discussion, and suggest that
3 they -- that, A, this is a -- again, a supervisor is supposed
4 to sign off on these every hour. It's hard for me to believe
5 that's -- a supervisor wouldn't catch that or push that
6 forward as these are turned in to the quality assurance
7 manager or someone above that they don't go back, and I think
8 on one or two occasions, Mr. Dorsey has said to me, "Yeah, we
9 talked to staff about that," but it doesn't seem to change.

10 Q. Paragraph 83 also provides, "Segregation may be used on a
11 youth only when the individual's behavior threatens imminent
12 harm to the youth or others."

13 Are defendants in compliance with that portion of
14 paragraph 83?

15 A. So I would say especially given the reduction in the use
16 of what they've called -- in the past called due process
17 confinements, which are clearly an after-the-fact discipline
18 tool, if they get those down to zero, which they did in, I
19 think, December and maybe January as well for that matter,
20 that's a big step forward. What that doesn't capture are
21 these other periods of time when, after an incident, youth are
22 placed in their room for an undetermined amount of time and
23 there's no documentation.

24 So an incident report says youth were -- you know, "I
25 escorted the youth to their room" or "Youth on the unit were

1 put down." That's not documented anywhere that I could tell,
2 and there's no verification of when they go in and when they
3 go out.

4 Q. So in the type of incident that you were just describing
5 where youth on the unit are put down, does that mean that
6 other youths other than the individual with the problem
7 behavior are also being locked in their rooms?

8 A. Well, I think it happens in -- the impression I get -- I
9 mean, in reading the incident reports, what you see are
10 situations in which quite a few youth are involved, and in
11 that case maybe even most of the kids on the unit might be put
12 down for a short period of time or a period of time that we
13 don't know.

14 There's also -- again, given staff shortages, there's two
15 other scenarios that occur. One is you may -- if there's been
16 a particularly difficult incident, you may want to have
17 youth -- move all the other youth in their room and then be
18 able to bring them out, for example, one by one to question
19 them, ask them what happened. So that may take a little time.
20 It might be a youth that wasn't directly involved in a fight,
21 for instance, or -- ideally you don't want to do that. You
22 want to find another way to do that, but I would say it could
23 happen.

24 The other type is given they're short-staffed, there have
25 been occasions both verbally told to us, to me, and also at

1 least one incident that I read, if there's a ruckus or a code
2 yellow in Unit A, for instance, you might -- a staff member in
3 Unit D might have all the residents go to their rooms, lock
4 them in, and then go assist staff in Unit A, because they're
5 the only staff available to assist.

6 There are different scenarios in which this happens, none
7 of which really is documented in a significant way. Verbally
8 they will say, yeah, we bring kids out as soon as we can. I
9 don't know if that's the case one way or the other. We -- you
10 know, some reports seem to reflect a longer period of time,
11 but there's nothing documented.

12 Q. What is the harm of isolation on youth?

13 A. Well, there's any range of things. One is there's some
14 pretty good research around youth being isolated for any
15 extended period of time, more than a couple hours really in
16 terms of sort of their ability to process that isolation, and
17 they can become actually more agitated and be
18 counterproductive in terms of changing -- certainly
19 counterproductive in terms of changing their behavior.

20 There you have the risk, depending on the situation,
21 anytime youth are in their rooms for disciplinary reasons in
22 particular -- and this can work both ways. A youth who
23 isn't -- wasn't in the incident but is stuck in their room
24 feels like they're treated unfairly and can get upset and
25 disruptive, maybe even make some sort of self-harm gesture

1 that would be of concern, or youth who were more involved and
2 agitated, getting them calmed down and being able to bring
3 them out and work with them is much safer than having them in
4 a room isolated where they may act out in some other way,
5 whether it's pounding on the walls or running water or other
6 behaviors that they -- kids act out often sort of
7 experimentally when they're angry and will do anything they
8 can to express their frustration. Sometimes that's certainly
9 counterproductive to safety of the facility.

10 Q. Mr. Moeser, just returning briefly to the half-time
11 schedule you referred to, I just want to clarify why that
12 half-time schedule occurs.

13 A. Related to school, you mean?

14 Q. Yes. Sorry to backtrack briefly.

15 A. Okay. You know, what they tell me is that -- and I have
16 talked with both the principal and Mr. Burnside, and this has
17 been an ongoing issue that the principal would like there
18 to -- and I would argue there should be a staff member in the
19 classroom with kids while they're in the classroom. That
20 helps the teacher. If there are behavioral issues, it's
21 another set of eyes on the youth.

22 If, for example, a teacher is spending some one-on-one
23 time with a youth, let's say, in a corner, there are things in
24 the school that kids maybe shouldn't get ahold of, and you
25 want to have somebody available to watch who can help keep the

1 kids sort of on task. So having a staff member in there
2 for -- both to prevent incidents or if something does happen
3 is important. So you need a staff member in each classroom.

4 You then also would want a staff member nearby or in the
5 hallway or available if needed pretty expeditiously to help,
6 if needed, to escort -- if a disruption occurs and you need to
7 escort a youth back to their unit for some reason.

8 So historically, as I -- when I've looked at the staffing
9 levels, there are not enough staff on a shift for them -- for
10 there to be four or five staffs associated with the school and
11 still covering the central patrol, maybe another unit or a
12 couple other units where the kids are, and so it's -- sort of
13 just a basic safety supervision standpoint, they have made the
14 choice to split them and minimize the number of youth in the
15 classroom area at any one time, minimize the number of staff
16 that are available, and they can cover.

17 Q. And what do the youth do if they're not -- if for the
18 half-time -- for the 50 percent of the school time that
19 they're not actually in the Henley-Young school?

20 A. Well, a couple things. One is teachers do provide them
21 with various kinds of worksheets, let's say, basic math
22 worksheet or word search puzzles or things that are, you know,
23 fairly rudimentary in nature, things you might give your child
24 to kill some time. May or may not be part of a, you know,
25 curriculum in some way.

1 I think they do try and give -- you know, try and give
2 certain kids certain things that are at the appropriate level,
3 but it's difficult, so they'll give a set of maybe some
4 worksheets a kid is supposed to work on on the unit.

5 When we were there in 2019 and '20, very few kids were
6 working on that, and that's kind of the report from staff now
7 as well, that they basically -- if it takes them an hour,
8 that's the most a kid will work on it, but it's much more
9 common they take that largely as free time.

10 And, in fact, at one point Ms. Warfield sort of took the
11 approach -- it hasn't held up partly because of COVID and
12 other reasons -- that, well, if they're not going to be doing
13 schoolwork, let's try and do some group counseling stuff in
14 the morning and use that time for that. So I think there's
15 clearly an issue with those are not meaningful academic days
16 for those youth.

17 Q. So the work that -- just so that I understand, are you
18 saying that the work that they do on the housing units, is
19 that work comparable to going to school that day?

20 A. No.

21 Q. And it takes about how long for them to do it?

22 A. I think in Mr. Caldwell's case, he talked about an hour.
23 Other staff talked about an hour, if they work on it.

24 Q. So how many hours per week does each JCA spend in
25 school -- in the Henley-Young school with a teacher?

1 A. Well, over the course of two weeks -- because of
2 alternating days, over the course of two weeks, they would
3 get -- each JCA would get 330 minutes over the course of two
4 weeks. The standard is 330 minutes every week.

5 Q. Have you made recommendations regarding the amount of
6 time youth should be in school?

7 A. I don't -- I don't recall making recommendations other
8 than pointing out that that's clearly not adequate, both in
9 terms of quantity and quality. These youth are way behind.
10 If anything, we should be catching them up and accelerating
11 their learning, not slowing it down.

12 Q. And when have you pointed out --

13 A. But I don't think -- I don't think I've made any specific
14 recommendations beyond that. Maybe in the past I recommended
15 using various software programs so kids could be self-paced
16 learning, but I don't recall much beyond that.

17 Q. When have you pointed out what you just talked about,
18 pointing out to leadership that the number of hours is not
19 sufficient?

20 A. Well, I think the first I would have mentioned it would
21 have been after the February 2020 visit because we, I think,
22 observed them not doing much. I don't recall in the interim
23 period other than asking about it and trying to determine if
24 that was still the case. I think there were periods where
25 they tried to do it better. COVID was in that period, which

1 made it difficult as well, but now post-COVID they're
2 continuing.

3 Q. And have you discussed the number of hours youth are in
4 school with the leadership at Henley-Young?

5 A. I think, again, other than to sort of note it and put it
6 in the report, but it's not been a focal point of the
7 discussion.

8 Q. All right. Mr. Moeser, let's talk about your review of
9 incident reports, which you said is part of your regular
10 monitoring activities.

11 In the most recent monitoring period from October 2021 to
12 about the present -- is that right?

13 A. Yes.

14 Q. Did you review incident reports?

15 A. Yes.

16 Q. And do you review a sampling or all the incident reports
17 for that period?

18 A. Since early after the October visit, I began requesting
19 all of the reports weekly. Anne Nelsen from SPLC had been
20 getting them and -- kind of on a regular basis, and I thought,
21 frankly, rather than have Mr. Dorsey, you know, try and pull
22 together special ones for me on a visit, that I might as
23 well -- he just add me to the e-mail, so roughly since October
24 I've been getting all of them as well as ones that, again,
25 Synarus Green may have put on the shared drive, which often

1 I've already had.

2 Q. And about how many incident reports did you receive for
3 that period?

4 A. About 80. Eighty or 90.

5 Q. And what are the different categories of incidents in the
6 reports that you reviewed?

7 A. Yeah. The major ones that I kind of look at are
8 self-harm. So one category would be self-harm, suicidal
9 incident -- related incidents. Those can range from verbal
10 expressions of harm or a youth may say something like, you
11 know, "I'm going to get out of here one way or another. I'm
12 not going to be here tomorrow," or they may not make a direct
13 kind of threat, but they may say something. And then on some
14 occasion, often perhaps with their therapist, they may express
15 something.

16 So there are a handful of those, but the larger category
17 are where a youth actually make some sort of active step,
18 tying a sock around their neck or a bedsheet or something that
19 could -- could end up in death. That's one category.

20 Contraband of various kinds is another category. That's
21 three -- the top three would be suicide, contraband, and
22 various fights or assaultive behavior. Those take up about 60
23 of the 80, roughly.

24 Q. And what are the other categories?

25 A. Well, I'll look at -- there are some where there's

1 assault on staff, where the assault is with -- toward a staff
2 member. There have been a few of those. There's some that
3 they list as -- you know, they'll categorize them as
4 noncompliant, which is just a way to document that a youth is,
5 you know, not cooperative with returning to an area or
6 disruptive in some other way, you know, maybe at school, maybe
7 in multipurpose room.

8 There are incidents that will get -- at least in my
9 tracking of them will get designated as a PREA-related
10 incident that may have some sexual contact or sexual behavior
11 associated with it. There may be a few others that just don't
12 seem to fit any category, for example. (AUDIO GAP) would be
13 an example, just something to document a youth's behavior that
14 doesn't fit any of the other categories.

15 Q. Earlier we were discussing an incident involving an
16 officer use of force.

17 A. Yes.

18 Q. Do you review incident reports where that's recorded?

19 A. I do. I mean, that's -- they don't have a use-of-force
20 particular special report. It's just within the body of the
21 incident reviews.

22 Q. So of the 80 to 90, you said that one of the top three
23 categories are suicide attempts or other suicidal ideation of
24 some sort. Is there a -- about -- do you know about how many
25 of the 90 or 80 to 90 involved --

1 A. I think about 20 -- about 20. And that's not 20
2 different youth. I mean, it's not uncommon to have one youth
3 account for four, five, six of those.

4 Q. And you talked about actual suicide attempts. Were there
5 any -- are youth at risk of suicide at Henley-Young?

6 A. Yes.

7 Q. You also talked about contraband in some of the incident
8 reports?

9 A. Yes.

10 Q. What kind of contraband do you see in those reports?

11 A. The largest category is some kind of tobacco, lighting --
12 a lighter, tobacco products of one kind or another. There
13 have been -- excuse me -- several with, for example, half a
14 scissors and then another one with the other half of the
15 scissors. One references a shank of some kind that a youth
16 created out of something. So they're mostly -- they're
17 largely tobacco. There have been a couple incidents of staff
18 smelling smoke or something obviously has been burning, but
19 they can't locate what it is.

20 Contraband, there was one incident of a youth being able
21 to sneak a Chromebook out of school to take back to the unit.
22 I think -- I'm trying to think if there were any with -- I
23 don't recall any with drugs. I don't recall any with even
24 marijuana.

25 Q. When youth have contraband, like tobacco or a lighter,

1 how are they able to get ahold of contraband like that?

2 A. Well, there's no contact visitation going on, so the only
3 way they could get it is if staff are bringing it in and
4 allowing them to have it, giving it to them or allowing them
5 to have it. You could -- there may be a situation where staff
6 could be careless or something, but they shouldn't be smoking
7 in there anyway, so it's got to be a staff member that's
8 bringing it to them or giving it to them.

9 Q. And regarding the risk of suicide at Henley-Young, can
10 you just elaborate briefly as to why youth at Henley-Young are
11 at risk of suicide?

12 A. Well, yes. I mean, lots of things going on, but -- so
13 youth -- one is that a lot of -- you know, a fair amount of
14 youth behavior is experimental. They have little to no
15 emotional control. They have little to no appreciation for
16 consequences of their actions. They are very susceptible to
17 urgent both risk and rewards, so they have very short-term --
18 no ability to delay gratification.

19 So you're describing, right, somebody who acts very
20 impulsively, whether it's out of anger or frustration. They
21 have -- most often have had experience with a lot of trauma or
22 adverse experiences in their childhood that increase the risk
23 of suicidal behavior. They have -- so they're just -- they
24 have -- you know, a significant -- a significant number of
25 them have diagnosed mental health issues and they're on

1 medications. So they're in a very high-risk category to start
2 with in an environment that, if not properly managed, really
3 exacerbates those risks, like being isolated in a room, for
4 example, especially being isolated in a room when they don't
5 think they should be, conflicts with other youth where they
6 get frustrated.

7 They don't think of a -- you know, their only way out is
8 to -- it's either a meaningful sort of suicide threat or it's
9 meant to sort of express their frustration in some way. So
10 they'll take a sock or a shirt or part of a bedsheet and tie
11 it around their neck. They'll crawl under the bed and hide
12 from staff and try and get away from them, and fortunately
13 there have not been any deaths, although there have been --
14 there was another -- there was a close call this time, in the
15 last few months, and prior -- earlier in the year.
16 Fortunately, staff -- or at least the ones -- reports we get,
17 staff are seeing them and intervening.

18 Q. And what do you mean by a "close call"?

19 A. Well, I think -- I think by the time they got to the
20 youth, he was unresponsive and they ended up having to
21 transport him to the medical facility. I think he was revived
22 on the way and returned to the facility, but he was apparently
23 unresponsive on the unit.

24 The challenge with staff, again, short staffing, they
25 have a policy that requires youth on suicide precaution in

1 some cases to have a one-on-one staff member who has eyes on
2 them all the time. And there are those sort of periodic room
3 checks that in some cases are supposed to be done at least
4 every five minutes for youth on suicide precautions. And if
5 they're short of staff, that increases the risk. So there are
6 things that increase the risk of a -- for a volatile and
7 impulsive population.

8 Q. I'd like to switch gears and talk about some of the
9 incident reports.

10 MS. VERA: Could we get PX-45 up, please?

11 BY MS. VERA:

12 Q. Mr. Moeser, this is titled "Unusual Incident Report."

13 A. Yeah.

14 Q. You see where it says the date of occurrence is 11/23/21?

15 A. Yeah. Yes.

16 Q. Is this an incident report that you are familiar with?

17 A. Yes.

18 Q. Can you briefly describe the nature of this incident?

19 A. So I think this was an incident -- I believe was one in
20 which quite a few youth on the unit became engaged in some
21 disruption or fighting of some kind, and you can see in this
22 report that -- I believe there were a couple staff members who
23 were in training that came to assist and they -- and this is
24 example where they say residents were put up, meaning they all
25 went back to their room, or they were all placed in their room

1 for some period of time. We don't know how long.

2 MS. VERA: Your Honor, I'd like to -- I move to admit
3 PX-45 into evidence.

4 THE COURT: Any objection?

5 MR. MORISANI: No, sir.

6 THE COURT: PX-45 will be received into evidence.

7 (Plaintiff's Exhibit 45 entered.)

8 BY MS. VERA:

9 Q. And, Mr. Moeser, do you see where it says that this --
10 the YCP says that he was called to Walter Payton for a
11 disturbance call?

12 A. Yes.

13 Q. And it says all the residents were trying to fight one
14 resident?

15 A. Yes.

16 Q. And it says "Still myself and SYCP Marshall told YCP
17 McGee to put everyone up."

18 Is that what you were just reading from?

19 A. Correct. I think both those -- I believe, if I'm
20 remembering this one right, both staff were in a training
21 program and directed the staff -- Youth Care Professional
22 McGee to just lock everybody up.

23 Q. And who wrote this page, this report?

24 A. This was written by Officer -- Senior Youth Care
25 Professional Collins.

1 Q. I'm turning to page 2. And is this witness statement
2 written by another employee?

3 A. Yes. This is the other supervisor who I think was in the
4 training as well and responded to the unit.

5 Q. Okay. And then page 3, please?

6 A. And I should add, as alluded to, the time issues, you'll
7 notice on Mr. Marshall's report he talked about they should be
8 in their rooms until the end of class.

9 Q. Okay. Who wrote the witness statement that's on page 3
10 of this exhibit?

11 A. This is Mr. Caples. He was one of -- at the time one of
12 the qualified mental health clinicians at Henley-Young.

13 MS. VERA: And finally can we please look at page 4?
14 This is the last page of the exhibit.

15 BY MS. VERA:

16 Q. Who wrote page 4?

17 A. This was, I believe, the youth that was referred to
18 earlier as having been, you know, assaulted, picked on by
19 other youth on the unit. They often may ask -- frequently
20 will ask a youth to write a statement of some kind, and this
21 is what it is.

22 Q. Does this incident report include a report by the officer
23 who apparently was stationed on the unit where this incident
24 occurred?

25 A. It does not.

1 Q. Was anyone supervising the pod? Can we tell from these
2 reports?

3 MR. MORISANI: Objection.

4 THE COURT: Hold on before you answer, Mr. Moeser.

5 What's your objection?

6 MR. MORISANI: It calls for speculation. I don't know
7 if there's any way that he would know that answer.

8 BY MS. VERA:

9 Q. Can we tell from these reports which YCP was supervising
10 the pod?

11 A. We can tell that Officer McGee was supposed to be
12 supervising the pod.

13 Q. And how can you tell that from the report?

14 A. Because in the earlier report, you see the supervisors
15 coming in and telling Mr. McGee to put the youth up. So
16 Mr. McGee was the YCP for that pod.

17 Q. And do the reports describe Mr. McGee taking action in
18 light of the incident?

19 A. No.

20 Q. From these reports do you believe adequate supervision
21 was in place?

22 A. No. And I would only say that because -- I mean, in part
23 based on the youth's statement but also Mr. McGee, clearly
24 being assigned to that unit, should have been the one to write
25 an incident report to start with, and the other two would have

1 been essentially witness or collateral statements. The fact
2 that he did not, that's certainly not adequate performance,
3 you know, whether or not he was on the unit, either way.

4 Q. Can we go back --

5 A. Obviously he's the one -- he's apparent- -- he's
6 obviously the one that made the call for assistance, and
7 that -- there should be report from him as well.

8 MS. VERA: Can we go back to page 2, please?

9 BY MS. VERA:

10 Q. Mr. Moeser, where in the unit did this assault occur?

11 A. Say that again.

12 Q. Where in the unit did this assault occur?

13 A. I think this -- I think this is the one where the youth
14 said that he had -- he was -- he was in his room or around his
15 room, but he was in his room, I believe. They went into that
16 room, and that's where they were bothering him, bullying him,
17 you know, telling him they wanted their snacks, that kind of
18 thing. So it was in his room where much of the incident
19 occurred.

20 Q. Now, the date of this report is November 23, 2021.

21 A. Yes.

22 Q. The report in this part of the report identifies that as
23 a Tuesday at approximately 9:45; is that correct?

24 A. Yes. Correct.

25 Q. Would that typically be school time?

1 A. Yes. Well, that would be -- right. I mean, the school
2 time for those that are in school, but it's theoretically work
3 time on the unit for the youth that are not in school.

4 Q. And I don't think we covered this when we were discussing
5 the A/B school schedule. Who supervises the youth when
6 they're doing the schoolwork on the units?

7 A. The youth care professional would be responsible for, you
8 know, sort of making sure the youth have their packet. I
9 think the teacher brings them, but the youth care professional
10 then is responsible for supervising the youth, encouraging
11 them to do the work.

12 In the best of all worlds, I think there are some staff
13 who try and help youth with some of the things if they don't
14 understand something. But it's the youth care professional
15 that direct who's doing that.

16 Q. Mr. Moeser, in your experience, are -- how are youth able
17 to go into another youth's room when they're on a unit
18 together?

19 A. Well, my -- certainly I think the proper procedure -- and
20 I'm -- and I'm told by staff, by leadership there, the proper
21 procedure is when youth are out of their cells -- what you
22 would do is bring youth out of their cells or their rooms for
23 the day or for a significant period of time. You'd bring them
24 out for school. You bring them out to go to recreation.
25 Whatever you bring them out to do, you would then shut their

1 room so they cannot go in and out of their rooms so that this
2 kind of stuff can't happen.

3 And that's even in a situation where you may even have a
4 better-aligned facility, but at Henley-Young the rooms are all
5 out in the open. There's no reason they shouldn't be locked
6 once the kids are out for the morning for whatever -- if
7 they're supposed to be doing work on the unit, they should not
8 be able to go in and out of the rooms.

9 I would -- I would want to -- if a youth needed something
10 out of the room or for school or for working on something or
11 they forgot their glasses or who knows what, a legitimate
12 purpose, I would then go open the room, let them get what they
13 need, and come back out, then lock the room after.

14 MS. VERA: Can we please pull up PX-46?

15 BY MS. VERA:

16 Q. Mr. Moeser, is this an incident report for a fight on
17 October 26, 2021?

18 A. Yes.

19 Q. Are you familiar with this incident?

20 A. Yes.

21 Q. Can you briefly describe what happened here?

22 A. So this is an incident where, as it says on there, youth
23 were at -- some were working on their schoolwork and one
24 resident was getting shoes from another room and sort of in
25 and out of the area and that the staff member noticed sort of

1 a resident, as he says, head nod towards another youth and
2 they began punching a third resident, a third youth, who
3 was -- my understanding was at the table working on
4 schoolwork.

5 So it was again, you know, youth milling around a little
6 bit, and I think -- I think, as I recall this incident, one or
7 two of the assaulting youth expressed that this other youth
8 had been bullying them or picking on them earlier and that was
9 why they (AUDIO GAP) --

10 Q. And what's the date of this incident report?

11 A. I think -- it looks like 26th of October.

12 Q. And is that --

13 A. It's a little small, but yes.

14 Q. Do you see where it says -- the youth care professional
15 writes that they were "monitoring male residents on Ossie
16 Davis B-Pod while residents were doing schoolwork on the
17 unit"?

18 A. Yes.

19 Q. What does that indicate to you?

20 A. Well, that just means that that group of youth were not
21 in the classroom, obviously, and that at least some of the
22 youth were either -- probably some of the youth were doing
23 work at the tables.

24 Q. The report also, as you noted, indicates that the youth
25 were wandering around the unit and getting their shoes out of

1 rooms. Why were they able to do that?

2 A. You know, again, the doors obviously were left open. You
3 know, that's -- I mean, the typical routine would be get all
4 your stuff, come on out, lock your door. Doors should not be
5 left open for youth to wander in and out.

6 Q. All right. Was the YCP in this instance providing
7 adequate supervision?

8 A. It looked -- on this one, as I read it, it looked like he
9 was there. He was engaged and intervened as soon as he could.
10 As soon as the other youth attacked, I mean, you could see
11 that he was observant enough to notice some kind of apparent
12 signal from one to the other. Whether he could have --
13 whether he could prevented it or not, it's hard to tell, but
14 there was obviously something that led to this. But it looked
15 like he was fairly observant.

16 Q. Is there any after-action report or documentation here
17 indicating an assessment of how this fight came about?

18 A. I think -- if I remember, this is one where I think the
19 clinicians, maybe both clinicians, met with -- each of the
20 youth there are assigned to one of two clinicians, the
21 qualified mental health people, and now there's only one on
22 staff, so that's a problem. But nevertheless, at this time
23 there were two.

24 I believe this is the incident in which each of them
25 spoke to their assigned clinician, who wrote additional

1 reports, and I think one of them indicated that at least one
2 of the youth that did the assaulting was frustrated and felt
3 he had been bullied or bothered by the third youth earlier in
4 the day or the day before. I don't know. There was some kind
5 of prior conflict between those youth.

6 MS. VERA: Let's move on to PX-47, please.

7 BY MS. VERA:

8 Q. Mr. Moeser, I'd like to talk about a couple incidents
9 involving sexual misconduct.

10 A. Yes.

11 MS. VERA: Your Honor, I apologize. Did I move to
12 admit Plaintiff's Exhibit 46?

13 THE COURT: Any objection from the defendant?

14 MR. MORISANI: No, sir.

15 THE COURT: PX-46 will be received into evidence.

16 (Plaintiff's Exhibit 46 entered.)

17 MS. VERA: Thank you. My mistake.

18 So we can move on to 47.

19 BY MS. VERA:

20 Q. Mr. Moeser, are you familiar with this incident dated
21 October -- the incident report dated October 8th, 2021?

22 A. Yes.

23 Q. And how is this incident report categorized at the top?

24 A. "Assault." "Report of an Assault."

25 Q. And did this incident involve a sexual abuse or

1 misconduct allegation among the youth?

2 A. Yes.

3 Q. Can you briefly describe what happened in this incident?

4 A. So it gets a little tricky when there's so many
5 redactions in there, but essentially my recollection is that
6 at some point in the afternoon -- so this is around 3:00. So
7 Mr. Caples, who wrote this report, is one of the mental health
8 therapists, and a youth reported to him that he had been
9 earlier that day -- excuse me -- earlier that day had been
10 grabbed by another resident. A couple other residents kind of
11 stood by, but this youth -- this youth says he was dragged
12 into his room earlier that day, that he was -- that the
13 youth -- that the assaulting youth pulled his pants down,
14 started ripping his underwear, touched his penis, "private
15 parts" in this case, it says, and that the YCP on duty did not
16 attempt to stop it.

17 Eventually, as I recall, either the -- I don't know if it
18 was the initial two, but a couple other youth came in and sort
19 of pulled the assaulting youth off of him.

20 Q. And based on your experience, Mr. Moeser, should a staff
21 member be available to intervene in an incident like that?

22 A. Absolutely.

23 MS. VERA: Your Honor, the United States moves to admit
24 PX-47.

25 THE COURT: Any objection from the defendant?

1 MR. MORISANI: No objection.

2 THE COURT: PX-47 will be received into evidence.

3 (Plaintiff's Exhibit 47 entered.)

4 BY MS. VERA:

5 Q. Mr. Moeser, did you discuss this incident with
6 Henley-Young employees?

7 A. I did.

8 Q. Who did you discuss it with?

9 A. I think both Mr. Burnside, who was the operations
10 manager, and Ms. Foster, who is the PREA -- designated PREA
11 coordinator.

12 Q. And do you know if there was further review or
13 investigation beyond this report?

14 A. Yes. In talking with Mr. Burnside, he indicated that he
15 reviewed the video or the cameras associated with this unit.
16 Of course, he could not see into the -- there are not cameras
17 in the youth rooms themselves, but he could see the youth
18 being dragged into the unit and who was involved. He could
19 see that happening. He could see -- as I recall, Officer
20 McGee was on the unit sitting at a table and did nothing.

21 Also then this was referred to Ms. Foster as the PREA
22 coordinator. She did some further questioning, I believe.
23 I'm not sure who she all spoke to, but she ended up concluding
24 that this was a founded -- agreed with the complaint this had
25 happened in talking with, I think, some other youth and the

1 victim.

2 Q. And in an incident like this, was there any systemic
3 after-action review?

4 A. Given the -- there's two aspects to that. One is there's
5 kind of the -- the PREA report was filed by Ms. Foster. So
6 her aspect of it in terms of whether there was sexual contact
7 was followed up on, and she did do a report.

8 In terms of the incident, you know, grabbing the youth,
9 dragging him into a room, regardless of what happened in the
10 room, the lack of staff response, there was no after-action
11 report or further investigation that I received. And I think
12 I asked -- I know I asked for something. I think I even might
13 have asked for had Mr. McGee written an incident report and
14 have not received -- and I asked for that and have not gotten
15 anything, so I don't believe he did.

16 So there was no -- sort of no follow-up investigative
17 report on the other aspects of the behavior other than the
18 PREA piece, at least documented in any way.

19 Q. Yes.

20 MS. VERA: And I'll just proffer for the record that
21 PX-47 is one page, so it's accurate that there is not a report
22 included by the YCP on duty.

23 BY MS. VERA:

24 Q. Mr. Moeser, earlier you testified about the type of
25 supervision that is appropriate when youth have some amount of

1 free time or freedom to move around.

2 A. Sure.

3 Q. Was appropriate supervision in place here?

4 A. No.

5 THE COURT: Let me make sure I'm correct on something.

6 PX-47 is just one page?

7 MS. VERA: That's right, Your Honor.

8 THE COURT: I'm sorry?

9 MS. VERA: Yes, Your Honor.

10 THE COURT: Is it -- well, I heard you say you're
11 proffering that it's only one page. Should it be more than
12 one page?

13 MS. VERA: No, Your Honor. Mr. Moeser had mentioned
14 that he did not believe that there was another report written
15 by the officer on duty and that the report we had -- the
16 report that is PX-47 was written by a different staff member,
17 and I was just noting for the record that that was accurate.
18 The exhibit does not include a report written by the officer
19 who was on duty.

20 THE COURT: Okay. Should it -- I guess the question
21 for me is: Should it have been written by the person on duty?
22 You could ask Mr. Moeser that question.

23 MS. VERA: Pardon?

24 THE COURT: You could ask Mr. Moeser that question.

25 BY MS. VERA:

1 Q. Mr. Moeser, should there be a report included by the
2 officer who was supervising?

3 A. Absolutely.

4 THE COURT: Thank you.

5 MS. VERA: Thank you.

6 BY MS. VERA:

7 Q. And when we talk about --

8 A. And -- and -- I would say, and I would argue there should
9 be some kind of investigative or after-action report written
10 by Mr. Burnside or Mr. Crisler. Well, this wasn't
11 Mr. Crisler's time, so...

12 Q. And with regard to those -- those points about adequate
13 documentation and report writing and after-action reports, is
14 that something you've recommended?

15 A. I have mentioned it on several occasions. I think I have
16 included it in my monitoring reports at least a couple times
17 and will again on this next one. It's -- I'm not able -- I'm
18 not getting documentation about any action taken, you know,
19 following that, and whether it's a personnel investigation
20 kind of report or a report -- sort of critical incident
21 debriefing of some kind, there should be documentation of that
22 in whatever form is proper at the time.

23 Q. What is the value of such a corrective action report?

24 A. Well, first of all, it documents that they're actually
25 doing something, some kind of follow-up. So, for example, a

1 critical incident debriefing process or something where people
2 get together and say, here's what we did right; here's what we
3 did wrong; here's what we could have done better; here's how
4 this incident occurred; here's perhaps even something we could
5 change in policy and practice. Having that in any particular
6 case is very helpful.

7 As an administrator, then you also want to look for
8 patterns that might occur over time. So you may begin to
9 see -- you may -- by virtue of doing these -- doing the
10 debriefings or whatever, you'll see patterns that emerge that
11 speak to policy or things you need to change in the facility.

12 They also -- those kind of debriefings also become -- can
13 be used as a training tool both at the time for staff that are
14 involved or subsequent training where you can come in and say,
15 "Here's an incident that happened. Here's the kind of
16 information we gathered after this. This tells us that we
17 should be doing X, Y, Z differently than we're doing." So
18 there's multiple reasons to have it, the first of which is you
19 just need to be able to say you did some kind of legitimate
20 administrative management review.

21 Q. All right.

22 MS. VERA: Let's pull up PX-29, please.

23 BY MS. VERA:

24 Q. Mr. Moeser, is this the same type of supervisor checklist
25 we were discussing earlier?

1 A. Yes.

2 MS. VERA: Let's turn to the second page of the
3 exhibit, please.

4 BY MS. VERA:

5 Q. Mr. Moeser, are you familiar with this incident report?

6 A. Yes.

7 Q. Can you briefly describe what occurred here?

8 A. Yes. This is an incident, again reported to a therapist,
9 in this case Ms. Frelix. Now Mr. Caples is one of her -- one
10 of the girls during a session reported sort of a confrontation
11 she had with another youth while they were in visitation on
12 that prior Saturday. So this would have been Monday that the
13 session was occurring, and then she reported what had
14 happened.

15 She relayed that this other girl had been bothering her,
16 touching her, sitting on her lap, you know, some things like
17 that, and that she finally got frustrated and grabbed the
18 offending girl around the neck, in this case says -- said she
19 got scared because she saw that resident -- that youth's eyes
20 roll back in her head and she let go.

21 So this happened in the visitation area. No staff
22 report. Clearly in this case no staff available is referenced
23 here as well, and it's completely unclear how they could end
24 up in the visitation area unsupervised, again, other than the
25 staff shortage, which can be particularly difficult on

1 weekends because there's less structured time as well and
2 staff take off weekends if they can, and in this case
3 apparently they were allowed to be in the visitation area
4 without supervision.

5 Q. And just to be clear, this is an incident report
6 involving sexual misconduct?

7 A. The discussion -- you know, she's not real specific about
8 where -- you know, what touching or what she was touching, but
9 I -- so I guess I can't answer exactly what the nature of the
10 contact was.

11 Q. Okay.

12 A. These go to Mr. Burnside, who makes a determination
13 whether to refer it to Ms. Foster for a PREA investigation. I
14 don't believe he did in this.

15 MS. VERA: Can we look back on page 1, please. We
16 don't have to zoom in.

17 BY MS. VERA:

18 Q. So who signed off on this report?

19 A. Mr. Dorsey. So Mr. Dorsey, who is the quality assurance
20 manager.

21 Q. And he checked off all --

22 A. So he would -- yeah. He would be -- when these are done
23 typically by some -- he has some responsibility for the youth
24 support specialists and the clinicians in terms of
25 administratively, so that's why he's signing off as if he

1 were -- essentially were the supervisor of Mr. Caples or
2 Ms. Frelix in this case.

3 Q. And is -- are there any comments or follow-up indicated?

4 A. No.

5 Q. Do you think this constitutes a meaningful review of the
6 report itself?

7 A. I guess I don't know the answer to that. I think it
8 would certainly be helpful to have some additional comments
9 related to -- for example, you know, investigated why they
10 were alone in the visitation area or sort of what were some of
11 the factors that contributed to it or in this case, yes or no,
12 whether it was referred for a PREA investigation. So I guess
13 I would say it's not adequate, should be done better.

14 MS. VERA: Your Honor, the United States moves to admit
15 PX-29.

16 THE COURT: Any objection?

17 MR. MORISANI: No, Your Honor.

18 THE COURT: PX-29 will be received into evidence.

19 (Pleading's Exhibit 29 entered.)

20 MS. VERA: So, Your Honor, I'm close here, but I
21 recognize that it's Friday and the Court had other -- the
22 Court had mentioned other things that Your Honor wanted to
23 discuss. I'm happy to continue. I just wanted to pause for a
24 moment just in case.

25 THE COURT: How much longer do you think you have with

1 this witness? How many more exhibits?

2 MS. VERA: I think 30 minutes, Your Honor. It could be
3 less, but I don't want to overpromise.

4 THE COURT: I guess we'll stop for the day. I mean,
5 it's late. I mean, we can -- let me -- I'm looking -- we're
6 not going beyond 5:00, so we may as well stop now.

7 MS. VERA: That's fine. Thank you, Your Honor.

8 Thank you, Mr. Moeser.

9 THE COURT: Mr. Moeser, thank you for being with us
10 today. Yeah, this is a -- as I said, you-all have done a
11 great job this week. So we will allow the Government to put a
12 pin in it right there and we'll pick back up on this on
13 Monday.

14 There are -- oh, I'm sorry. Not Monday. Not Monday.
15 If you show up Monday, man, that door will be locked outside.
16 The whole courthouse will be dark. The Government lawyers
17 knew I didn't mean Monday. No, we'll start up Tuesday
18 morning. I'm sorry.

19 The Court is -- the Court received a filing from one of
20 the interested parties about having access to the sealed
21 records, and initially that filing was submitted under seal,
22 but I decided I would give the lawyers -- well, it was
23 submitted *in camera*, I guess, under seal, and I gave the
24 parties an opportunity to respond.

25 The request -- part of the request, part A of the

1 request, was to allow the interested parties -- allow the
2 particular interested party who filed the motion to have
3 access to the sealed records, the sealed documents that are
4 sealed in this case, and I think from -- each party in this
5 matter, each objected to that. So the Court is going to deny
6 that request. I don't think having access to the sealed
7 records in this case -- we'll do a text order or something,
8 but I wanted you to know I'm denying that aspect of it.

9 And the interested party, I think, is in the courtroom,
10 and I did not advise her, but if there's anything else the
11 interested party wishes to say on the second portion of that
12 motion; that is, that they be allowed to participate in this
13 matter virtually while this trial continues next week, I don't
14 think the Government spoke to that aspect of the motion. I
15 think the defendant said you can if you want to or did not
16 oppose it.

17 But, Ms. Jones, if you wish to add anything else to the
18 request, you may. I do have a couple of questions, if you
19 will, about that particular request. You can come forward.

20 MS. JONES: Good afternoon, Your Honor. Thank you.

21 THE COURT: Good afternoon. And for the record, you
22 are?

23 MS. JONES: Leslie Faith Jones. I'm with the Southern
24 Poverty Law Center, and I'm here on behalf of interested
25 parties JH (AUDIO GAP), and we are interested parties in the

1 case of JH versus Hinds County.

2 THE COURT: Now, the request is that you-all
3 participate virtually through Zoom for at least some portion
4 of the rest of the trial, I think. Is that the case?

5 MS. JONES: Yes, sir. So given the way that the
6 proceedings have occurred so far, I made arrangements so I
7 should be able to be here next week. Now, if you go beyond
8 that, I don't want to -- if you're going to grant my motion, I
9 don't want to give up a chance to have a Zoom link, but next
10 week I will be at my --

11 THE COURT: Oh, next week?

12 MS. JONES: Yes.

13 THE COURT: We expect to be -- possibly be through next
14 week. Because one of the questions that I would have had is,
15 you know, are there other lawyers who could actually
16 participate? The defendants have somewhat received the sting
17 of that earlier motion with respect to that and got
18 Mr. Shelson involved at the very last minute because, you
19 know, we had to move forward and Mr. Siler could not be here.
20 So is there any other lawyers in the SPLC who could actually
21 be here and do whatever that is -- whatever you're doing with
22 respect to, you know, the participation that you're doing now?

23 MS. JONES: So I'm the only one that can be here in
24 person. The other couple of people would have to do virtual
25 participation. So since we didn't have that option, we just

1 made other arrangements.

2 THE COURT: No other paralegal or anyone -- I mean, I'm
3 not suggesting that a paralegal is equivalent to you and what
4 you're doing.

5 MS. JONES: I understand. It's not a problem. In this
6 moment I didn't have anyone on deck who could come, so the
7 virtual participation was for myself and another. If you're
8 open to granting that, then I can share that information, but
9 I will be here.

10 THE COURT: No. At this point I'm going to deny
11 without prejudice that portion of it, the request to
12 participate virtually, deny without prejudice since you're
13 going to be here next week, and you can bring it back up if
14 this matter goes forward through the following week.

15 MS. JONES: Yes, sir.

16 THE COURT: Okay.

17 MS. JONES: I do have a question for clarification.

18 THE COURT: Yes.

19 MS. JONES: And that's with regards to access to the
20 transcripts and the nonsealed evidence that's been provided
21 with the exhibits. That's really the information I was
22 seeking.

23 THE COURT: You will -- oh, the nonsealed evidence --

24 MS. JONES: Yes, sir.

25 THE COURT: -- and the transcripts?

1 MS. JONES: Yes, sir.

2 THE COURT: You'll have to work with the -- I mean,
3 right now I think the parties -- with respect to the
4 transcripts, you can work with the court reporter.

5 MS. JONES: Yes.

6 THE COURT: And like any other person, you will be able
7 to purchase or whatever it is that you have to do --

8 MS. JONES: Yes.

9 THE COURT: -- with respect to the transcripts, but
10 work with the court reporters on that.

11 MS. JONES: Yes, sir.

12 THE COURT: But whatever information is on the docket,
13 you already have access to, I think. Whatever public
14 information, you will have access. Right now the exhibits
15 have not been uploaded, I don't think, because the trial is
16 still going along.

17 MS. JONES: Yes. Which is why we filed the motion, to
18 see if we can access that in real time as opposed to having to
19 wait.

20 THE COURT: To have access to what?

21 MS. JONES: To the exhibits.

22 THE COURT: The exhibits are generally put in the
23 record. Work with Ms. Summers. I don't think we use the --
24 we put the -- we make the exhibits available to the public
25 until at the close of the trial.

1 MS. JONES: Yes, I understand. And so as interested
2 party, we were asking if we could have access before that
3 time.

4 THE COURT: Okay. That's putting a little bit of
5 burden on my staff. You could probably check with the parties
6 and see if you can get a copy of their exhibits.

7 MS. JONES: Sure. I can do that. I just -- I asked
8 and --

9 THE COURT: They're free to give you whatever.

10 MS. JONES: Okay.

11 THE COURT: They're not barred from giving you anything
12 they wish for you to have other than sealed exhibits.

13 MS. JONES: Yes, sir. No, I understand sealed exhibits
14 are not accessible, and that's not a problem. When I asked, I
15 was told to file a motion. So I was just following
16 instructions --

17 THE COURT: Oh, okay. Okay. Sure.

18 MS. JONES: -- to make sure we're not doing anything
19 that's not acceptable.

20 THE COURT: Right. And with respect to access to the
21 transcript, talk to the court reporter about how that access
22 is gotten by you.

23 MS. JONES: Yes, sir.

24 THE COURT: By the interested party, if you will.

25 MS. JONES: Thank you.

1 THE COURT: Thank you.

2 Now, with respect to the other issue, I know we got --
3 we'll have to finish with Mr. Moeser and, you know, the
4 defendants still at least have one other witness. I'm not
5 sure -- I suspect that Ms. Simpson will testify at some point
6 in time, and we know how long Mr. Parrish was, we know how
7 long Mr. Moeser was, and we know how long Mr. Dudley was. So,
8 you know, the idea of the Government finishing up on Tuesday
9 is probably not likely. I mean, so -- so I guess in saying
10 that, the defendant -- you know, still give them 24 hours'
11 notice of -- or more of who your witnesses will be the
12 following day or whatever. But I do have this one other
13 question that the parties will probably have to spend some
14 time on over this weekend.

15 I've been looking at -- in my view, y'all correct me if
16 I'm wrong, but we're operating as if it is. In my view, the
17 consent decree is still in place. The stipulated order is
18 still in place. What we have here is that the defendants have
19 moved to terminate that particular order.

20 The detention center for right now is without a jail
21 administrator, I think. You have an interim person; is that
22 correct? I understand the interim person is Mr. Simon. I
23 think that's what I've been hearing from the evidence.

24 MR. SHELSON: That's correct, Your Honor.

25 THE COURT: Okay. I don't know -- and I've been -- I

1 know at the status conferences, the County has represented
2 that they are in the process of at least putting a person,
3 whatever the status is between interim and permanent, I guess.
4 Acting. Acting. I believe that's the word you-all told me.

5 MR. SHELSON: Yes, sir. It's Chief Simon as we speak.
6 Frank Shaw is the person who Mr. Hall identified to the Court,
7 I think, on the last status conference before trial, and
8 Mr. Shaw will be at the facility on Monday.

9 THE COURT: This is the question that I have. The
10 consent decree, paragraph 38 of the consent decree identifies
11 the experience that a person is to have, and I just want to
12 make sure that the persons who are acting as jail
13 administrators or who will serve as jail administrator
14 actually meets the qualifications that are set forth in the
15 consent decree or are set forth in what has been represented
16 by the monitors and the parties all along, because we had
17 Ms. Rushing there when I first picked up this case. Then
18 there was Officer, or whatever his title was, Felder, and I
19 think, looking at the status report, Mr. Felder, in the words
20 of, I believe, the monitor's Docket No. 79 at 22, "Felder had
21 the requisite experience and qualifications necessary. Felder
22 had education, experience, and supervisory experience that --
23 of which Ms. Rushing did not have."

24 Now, we've talked about over the course of the day and
25 we've talked about on the status conferences all along the

1 experience that Major Bryan had, and I think everybody, at
2 least those persons who were responsible for hiring Major
3 Bryan, considered that she had the appropriate experience. So
4 I want to make sure what the parties deem the appropriate
5 experience is under paragraph 38 of the consent decree and how
6 the parties have discussed or how the parties have directed
7 that since 2016.

8 I mean, what type -- what is that experience that -- I
9 know it says five years of supervisory experience or five
10 years in experience. I do know that there is something much
11 different than jail and prisons. There is a difference, and
12 so we need to make sure that someone with experience is
13 prepared to lead the detention center and we will -- the
14 parties need to make sure that there is somebody there,
15 because that detention center is not going anywhere. It still
16 has inmates -- excuse me, it still has detainees.

17 So -- and if there is no one there with the requisite
18 experience, what does that do with the status of the -- the
19 County being in compliance or out of compliance, and if that
20 is an issue that we'll have to get to next week, then we'll
21 take the time to get into that issue next week, but I do --
22 I'm not giving anybody homework. Definitely giving the
23 parties something to think about.

24 And as I told you when I walked back in today, as I
25 usually do in every case that I've sat up here before, every

1 motion that I've had, civil, criminal, the case is in the
2 parties' hands. And as I learned as a very -- even -- as a
3 very, very young lawyer, I was always told, "I don't want
4 nobody deciding my fate, jury or otherwise." People -- but
5 y'all know me. I was always told, "I don't want nobody,
6 persons on the jury who I don't know, deciding what I must
7 do," so I encourage the parties to think about where we are.

8 At this point we've had a full week. This is -- this
9 is why I'm here. There's no problem. We're willing to take
10 whatever time we need to take to get the cases heard on our
11 docket. So we do what we have to do. We do what the law
12 requires, and I would just encourage the parties to think
13 about where we are in this case with respect to -- where we
14 are.

15 I mean, Major Bryan has been gone all of this month,
16 and I don't know if the detention center has -- I don't know.
17 Maybe Monday the new person will come aboard who has the
18 requisite skills and experience that the consent decree
19 require.

20 So that's all that I have. I hope you-all enjoy your
21 long weekend, and if the lawyers and the monitors are staying
22 over this long weekend, spend a whole lot of money in Jackson
23 for us.

24 All right. That is all. Please have a good weekend,
25 and I'll see you-all Tuesday morning. We'll start up at 9:00.

COURT REPORTER'S CERTIFICATE

I, Candice S. Crane, Official Court Reporter for the United States District Court for the Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true, and correct transcript of the proceedings had in the forenamed case at the time and place indicated, which proceedings were stenographically recorded by me to the best of my skill and ability.

I further certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

THIS, the 19th day of February, 2022.

/s/ Candice S. Crane, RPR CCR

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Official Court Reporter
United States District Court
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